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STATE EXPERIMENTS

IN

AUSTRALIA & NEW ZEALAND

BY

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CHAPTER I

THE LABOUR QUESTION

Labour Laws: Their Origin[1]

In Europe, disaffected beings who protest against the unequal division of profits between capital and labour, and who are unorthodox enough to believe that many of the conditions of industry are too monstrous and unnatural to be allowed to go on making human life a mere "procrastination of death," are usually warned off as seekers of the impossible. The very age and enormity of the wrongs they would attack are appealed to as proofs that these are inevitable parts of the frame of all great civilised societies. In the old world, in short, it is common for opponents of social reform either to rate

[1] Authorities.—Most information is found in the annual reports of the inspectors of factories—Victoria, New Zealand, New South Wales, Queensland, and South Australia. The Victorian reports began to be published in the eighties; those of New Zealand not until 1891, and of the other colonies not until 1897. Of the Victorian Parliamentary papers the most valuable are the reports and evidence of the Factories Act Inquiry Board, 1893. There are the publications of the Victorian Anti-Sweating League, and many articles in the *Age* and *Argus* newspapers in 1893 and other years. See also "Anti-Sweating and Factory Legislation in Victoria," by the Rev. John Hoatson, *Westminster Review*, October 1900. In the latter part of 1896 the *Sydney Daily Telegraph* published a series of fourteen articles, entitled "The Disastrous Effects of Protection in Victoria." They were written by a Melbourne free trader to discredit protectionism, but incidentally summarise the case against sweating. Note also "The Sweating System in Dunedin" (pamph.), Dunedin, 1889. For the flourishing condition of male adult labour in Victoria in the decade 1881-1891, see "The Eight-Hours Day in Victoria," a chapter in *The Eight Hours Day*, by John Rae.

the poor as a shiftless and thriftless lot, whose troubles are of their own making, or to pose as fatalists; when the wretchedness of poverty is spoken of, they shrug their shoulders, and fall back on the oriental Kismet!

In the colonies, for the most part, they have taken up a nearly opposite attitude. Instead of pleading the magnitude and antiquity of industrial evils as a reason for shrinking from trying to remove them, they deny their existence. Because in Australia and New Zealand the level of comfort amongst workers has been higher than in Europe, and even than in England, the *laissez-faire* party have been in the habit of scouting the notion that want and injustice are to be found. So it has come about that the comparatively high degree of comfort amongst colonial workers has been the chief obstacle in the way of reform. A dozen years ago, when the demand for labour laws first grew strong, colonial workpeople were almost always well fed; most of them were well clothed, decently housed, and did not work for excessively long hours. A large number were paid wages which were nearly, if not quite, as high as their trade could afford. Only a small minority of men workers had to put up with wages which would at once strike an enlightened Englishman or American as low. Unhappily this last could not be said of women or child workers. Still even their lot was—with some melancholy exceptions—above the European level. The climate of the colonies, too, is on the side of the workers. New Zealand's is ideal, so is Tasmania's, and the poor dread the summer heats of Australia far less than the cold of Northern Europe and America, where the long winters, with their short hours of daylight, mean that through half the year the workers toil from dark to dark. Even the poorest do not live in slums, are not

driven to ask for shelter in workhouses through sheer lack of house-room, are not pawns in the hands of financiers who manipulate railways, and do not have their city's water supply stinted in hot weather. There is, indeed, a loneliness in the pastoral country of the interior compared with which the sleepiest English village is a humming hive; but there is nothing in colonial cities as bad, or nearly as bad, as the slums of New York and London, or as thousands of city spots which are not slums, but which are soulless, ugly, and dispiriting. There is nothing to match the poorer streets in the English manufacturing towns of the Midlands and North, where the work-people, roused ere daylight in winter by the clang of the factory bell, troop to their unchanging round of narrow labour, trudging over the greasy cobblestones of streets lined with houses of grimy stone or sickly brick. Colonial work-people, too, are saved certain social contrasts and much social contempt. They do not even have to witness much of the flaunting luxury of the vulgar rich. Yet, because life is pleasanter for those who labour with their hands, it does not follow that all is always well. Much is often very far from well, and in the next few pages I propose to show this. If the workers' condition is better now than a decade ago, it is largely because abuses have been dealt with and evil tendencies checked. These abuses and tendencies are all the more noteworthy because the personal character of colonial employers as a class is very good. Most of them are kindly, well-meaning men and women, the very reverse of a race of sweaters and tyrants. If, then, in certain trades and in times of depression old-world evils hastened to reproduce themselves in young communities, it was because such things are inevitably begotten of capitalism and competition. The fact that

employers on the one side and workpeople on the other are of a good stamp has not prevented the inevitable. Their general level of intelligence and honesty has, however, made possible the application of regulative remedies which would not have been possible amongst a lying, tricky, law-defying race.

At no time and in no place probably was the working man supposed to be more completely master of the situation than in Victoria during the decade between 1881 and 1891. The colony was prosperous, with a prosperity of which the workers were believed to be having a full share. Whatever its economic cost may have been, the protectionist system deliberately adopted had helped to build up manufactures and find employment. Not unreasonably, the Victorians thought to find in protection the means of attaching permanently to the colony the tens of thousands attracted thither by the great gold discoveries of the fifties. The inrush had been extraordinary. In 1846, after ten years of pastoral settlement, the province only held 33,000 colonists. Eleven years afterwards their number had grown to 410,000, and by 1881 the latter figures had more than doubled. By that time, however, the alluvial mines were being worked out. In the ten years after 1881 the number of the miners decreased by more than 50 per cent. In the same decade the increase of agricultural work-people was but 15 per cent, and of pastoral but 16 per cent. Yet the population grew by 33 per cent, and the richer section of it by much more than that. This was not due to any rapid growth of external trade. Imports, indeed, were worth some five millions more in 1891 than they had been ten years before; but the exports had not advanced at all, and were not half the value of the imports. What had grown were manu-

factures, in which, probably, sixty thousand hands were busy. Borrowing, public and private, had been lavish, the latter especially. What is called in colonial journalese "a spirited policy of public works" had been pushed on; but the energy shown in that way was nothing to the wild land speculation which went on towards the end of the period, and which has since borne such bitter fruit. While they lasted, however, the years of plenty went dancing by to the lightest of financial music. The season of the Melbourne boom was a merry time. By April 1891 the population of Victoria had come to be 1,140,000. Melbourne was a really fine city of 460,000 inhabitants, and as solid as stone and brick-and-mortar could make it; Ballarat and Bendigo had each 40,000 people; and Geelong, though smaller, was a good-sized town. Outwardly, all was as substantial as it was thriving, and colonists from less flourishing provinces were undisguisedly envious of the bustling Victorians.

Yet as early as 1880 the *Age* newspaper had asserted that underneath all this fair surface of progress, prosperity, and political equality some of the evils of the old world's industrial system were taking root and spreading like imported weeds in a new and favourable soil. That vigorous and popular newspaper, the *Age*, is Liberal rather than Socialist, and speaks for the *bourgeois* rather than for the worker. It is ably written, however, from the middle-class standpoint, is a power in politics, and has for a generation been the successful organ of Victorian protectionism. But, unlike so many of the mouthpieces of protection in America, it has not been narrowly hostile to trade unionism. In particular, it has done outspoken service in once and again denouncing sweating. For it was the acclimatisation of sweating which the *Age* attacked as far back as 1880,

and it was the sweating disease the spread of which was soon made plain by further proof. In 1882 the women in the Melbourne clothing trade were goaded into a strike by intolerable conditions, and public sympathy helped them to form the first women's trade-union organised in Australia. The revelations of the *Age*, the complaints of the factory girls, and an agitation about the same time for early closing in shops, led to the appointment of a royal commission to inquire into the relations of employers and employed—a commission the report of which, in 1884, is one of the important documents on the labour question in the colonies. The commission was not, like some commissions, merely a dignified and dawdling hypocrisy. It examined into the state of forty trades, and it protected witnesses by withholding their names from publication. It was able, therefore, to unearth much that was useful. On the other hand, it did not compel the worst class of small sweating masters to give evidence, and it also neglected to get full information from the increasing army of out-workers, then, as ever, the chief and passive instrument in the process of lengthening work-hours and grinding down wages. Yet, though the commission's investigations were largely confined to the better class of factories, its discoveries were startling enough to those who honestly believed in the theory that in the colonies workpeople, at any rate, had discovered paradise. It was found that though hours of labour were as low as eight, they were also as high as eighteen for males, and sixteen for females. The prices fixed under the factory "log" in the clothing trade were systematically undercut by a regular process of giving work to be done outside at starving rates. The usual trick was played with apprentices: children were taken on to be taught their

trade; were paid nothing, and taught little, and were dropped at the end of their three years' term, if they had not been got rid of on some excuse before. The stipulation of the "log" in the clothing trade, that the pay of apprentices should rise in two years from half-a-crown to twelve shillings a week, was evaded. Young people were taken on in numbers, to be turned adrift as soon as they grew up and ventured to hint at adults' standard wages. Then they had to choose between quitting the trade and picking up work as "improvers" at low pay. The commission's report advised, in emphatic terms, that the custom of giving out factory work to be done at home should be absolutely prohibited by statute, and that apprenticing should be properly regulated. But though a Factories and Shops Act was passed in 1885, neither of these steps was taken, and in 1890 the *Age* again spoke out. In a trenchant sentence of an article, printed on the 28th May, it summed up the situation: "It is abundantly certain that sweating—mean, frowsy, depraved, and pitiful—is carried on in Melbourne to a degree hardly less horrible than in London." The story the newspaper had to tell was, in its own words, a tale of overwork, underpay, and wretchedness; of girls found stitching in dens for twelve hours a day, painfully earning from two to twelve shillings a week. On 9th June 1890, at a large and indignant meeting held to condemn sweating, a resolution was passed in which the state of things under review was stigmatised as long hours of forced labour, where men, women, and children were huddled together indiscriminately. Dr. Strong moved this resolution, and Mr. Alfred Deakin supported it. A special report of the chief inspector of factories, issued shortly afterwards, showed how much foundation there was for these hard words. In the tailoring

trade outsiders, said Inspector Levey, were having work given out to them at 40 per cent below log prices, and in bootmaking at 15 per cent. Amongst the shirtmakers it took a very good "finisher" to earn more than half-a-crown a day. An average struck of the earnings of sixteen workers came to 11s. 3d. a week, and these were making more than most of their fellows. "Truly pitiable," were the words applied by the inspector to the shirtmakers' condition. He thought outworking the main cause of trouble in their trade, as in others. The problem was how to raise the prices paid to outworkers.

In April 1893 the *Age* once more returned to the charge. By that time the boom was over and Victoria was suffering a recovery from her financial drinking-bout. Many thousands had shaken the dust of Melbourne from their feet, and thousands more were about to do so: in four years and a half Victoria lost nearly seventy thousand souls, in ten years a hundred and twenty-five thousand. Speculation had collapsed, property was unsaleable, and men's daily talk was of bankruptcy and money scandals. Nor was Victoria alone in her tribulation. The prices of colonial produce had almost all fallen, English investors were panic-stricken, and Australia was on the eve of the famous banking crash. Nevertheless, even in such times, the unhappy case of the sweated workers claimed a share of attention, and in obedience to the public outcry, the Government of the day appointed a board of inquiry to report upon the complaints of sweating and the keeping of insanitary workshops. Before this body witnesses testified that the outwork and apprentice evils were worse than ever. In the shirt trade machinists were earning five shillings a week, and finishers two shillings

a day and less. Two shillings a suit was the price being paid to tailoring hands for making men's suits to be sold for two pounds. Work-people were found who were making seven or eight shillings a week by "working constantly," and others who were obliged to take almost anything that was offered them. In the furniture trade the competition of Chinese had been the main factor in bringing about a state of things so peculiarly intolerable that they demand a brief description. The furniture trade had certainly fallen upon evil days. Amongst several distracted trades its condition was, perhaps, the worst, for in it retail traders had sweated manufacturers, manufacturers had sweated contractors, and contractors were sweating work-people. Wages had fallen to one-half, and, in many cases, one-third of what had been regularly earned in prosperous days; and this was only part of the story. The trade had been demoralised by a double process of extreme competition. First there had been over-competition amongst the furniture manufacturers. Then there had been a novel and ruinous competition brought in by Chinese. To these two causes of depression was added the paralysing effect of very bad times. The history of the trade was curious. In the eighties it had flourished. Half-a-dozen large manufacturing firms then did nearly the whole business of supplying Melbourne. The cabinet-makers and others who worked for them were often highly-skilled craftsmen. Some of the furniture, for instance, sent from Victoria to the Indian and Colonial Exhibition in London was much praised and was sold for high prices. Ten shillings a day was a common rate of pay for the best men, and by working overtime they often made a half-a-crown more. In their prosperity masters and men did not trouble about the cheaper sorts of furniture.

Then came competition. First it caught the masters. A number of small dealers and self-styled manufacturers cut into the trade by importing quantities of cheap articles from England and by lowering prices. Next came the turn of the men. Chinese carpenters and cabinet-makers had gained a footing in Melbourne as early as 1880, when there were found to be sixty-six of them. In the next seven years their number multiplied nine times. The despised cheap branch of the trade, neglected by the Whites, was their opening. Without any great skill at cabinet-work, they could imitate; and their trashy furniture, fastened together with nails and glue and liberally beautified with varnish, was able to compete in cheapness with the sorriest stuff imported from Europe. In due course the bad times came; the demand for expensive furniture ceased; the White artisans and their masters endeavoured to take up the cheaper work. In vain,—the Chinese had too firm a grip of it. Their agents had found their way to all corners of the colony, and were in high favour with the storekeepers up the country. As for Melbourne, fifty per cent of the lower class furniture sold there was estimated to come from Chinese hands. When purchasers showed a twinge of the White Man's conscience, the dealers were always ready to assure them that this or that article was not of Chinese manufacture, and had as few scruples in doing so as an English butcher has in foisting Plate River mutton on his customers as best New Zealand. Not that the customers of the Melbourne furniture-dealers were always fastidious. A witness told the Inquiry Board in 1893 that if Chinese-made goods were 5 per cent cheaper than others, most of his customers would take them: "They talked of patriotism, but all they cared for was pocketism," said this disagreeable observer.

On the whole, however, it is clear that the objections to Chinese furniture were widespread and genuine, and that the public had to be hoodwinked to get them to take it.

Bad times and cut-throat competition together soon brought the furniture trade low. Dealer after dealer was declared bankrupt, and his stocks, sent to auction and "slaughtered," glutted the market. For a time the surviving manufacturers almost gave up having goods made, content to buy furniture at auctions and polish it up. Workmen were thrown out of employment on all sides. Whereas in 1891 there had been 1230 hands in the "White" (*i.e.* non-Chinese) factories, two years afterwards there were but 471. The trade union of cabinet-makers, which had numbered 200, lost all its members but fifteen. It accepted formally a reduction of 12½ per cent in wages, but in practice most cabinet-makers were soon thankful to make from fifteen to thirty shillings a week at piecework,—from a quarter to half their old receipts. A few White workmen were even reduced to take service under Chinese masters—an experience which the average Australian artisan looks upon as about the lowest of earthly humiliations. Other Whites fell back on botching cheap rubbish to undercut the Yellow men. The latter began to feel the pinch themselves. The dealers who had played them off against the Whites now played the starving Whites off against them. The Asiatic masters decreed a 20 per cent reduction. This was too much even for Eastern patience, and Australia witnessed the rare spectacle of a Chinese strike. Some of the strikers were taken back at 7 per cent less wages than before; others became outworkers, alone or in twos and threes, selling the rubbish they made to auctioneers for little more than the price of the timber. Half of them

quitted the trade. To say more of the condition of the furniture trade in 1892-94 would be waste of ink. Enough to say that the Chinese were being driven out of it. They had neither wives nor families to support; they could work long hours for wages barely sufficient to buy them fish, rice, and spirits; some of them could inhabit tenements which the health inspectors condemned and had pulled down as fast as they could; some of them could cook, eat, and sleep in the same room in an atmosphere where a whiff of opium gave an oriental flavour to more commonplace stenches. But they could not hold out against the rates of pay which ruled in the furniture trade before the law of 1896 took the sweating system by the throat.

Some striking examples were given to the Inquiry Board in 1893 of the general process by which work was being driven out of registered factories to be done in the garrets of outworkers—a process by which many factories were closed altogether. One of these may be found on page 14 of the Inquiry Board's first progress report. On page 16 is told the melancholy story of the Tailoresses' Union, organised with so much enthusiasm in 1883. At first all went well; some 2000 women joined it, as they easily could, for the weekly payments were made as low as twopence to attract them. Most clothing firms accepted the union log. Then came the bad times. Factory after factory found the conditions of the log "irksome"; the women rapidly fell away from the union; after ten years' life its membership had shrunk to 130, and though its officials had £500 in hand, the organisation was as good as dead.

Through 1894 and 1895 the lot of the workpeople grew steadily worse. The abuses which were crying out for remedy were not confined to factories or workshops.

The hours insisted on in some of the retail shops rivalled the worst cases in London. Writing of what he found on first getting to work to inspect shops under the good law passed in 1896, Mr. Ord, the chief inspector, declared that, until the enforcement of the new law had actually been placed in his hands, he had no idea of what went on in some of the colony's large towns. Whilst in most shops the hours had been short, in some girls worked for 90 hours a week, and were given no rest on Sundays. Some of the hardest worked were also the worst paid; they were getting from 6s. to 9s. a week, or less than a penny an hour. One girl begged the inspector to give her a permit to work for 72 hours a week—twenty more than the new statutory limit—as her master had threatened to cut down her wages. These wages were 6s. weekly, 2s. 6d. of which went in rent for the room she lived in.

At the end of 1897 Miss Cuthbertson, a female inspector, pointed out that retail shops were still badly ventilated, and often overheated with gas, but that the law of 1896 had done away with the mischief of excessive hours. Waitresses were no longer compelled to work as much as one hundred hours weekly, standing the greater part of the time.

Even when, after the law of 1896 had required seats to be provided for shopwomen—one for every three—all kinds of excuses were given for evading it. To see that the seats were there was one thing; to see that the women were allowed to use them was another. Inspectors (says the Factories Report of 1897) were assured that the girls could sit down when they were not busy; or were frankly told that the women had no time when they were not busy; or that customers did not like to see them sitting down. In shops, as in

factories, immediate dismissal was a common penalty for the employed who ventured to give information to the inspectors. There were instances in which luckless girls, who had not done this, were turned into the street upon the bare suspicion of it.

In the reports of the female inspectors there were sad sentences describing the strain caused in laundry work by continual standing and hard muscular exertion in a steam-laden air, the temperature of which, in the Melbourne summer, often rose to 110°, despite all efforts at ventilation. The hotter the weather the more washing there was to do, and before 1897 the women were frequently at work all day until late at night. The laundry-owners complained not without reason of two strange forms of competition. One was from religious and charitable institutions, which were exempt from factory regulation, and the inmates of which did their work for little or nothing. The other was from Chinese washers and manglers, who defied the legal regulation of hours by working noiselessly behind closed doors and blinded windows, and blandly perjuring themselves without compunction. Not that Chinese were the only workers who toiled for excessively long hours in Melbourne. Until the Act of 1896 was the means of reducing their hours, bakers often worked as much as 60 hours a week. In 1898 Mr. Mauger testified that pastry-cooks were working 106 hours for 30s. a week, and for 80 to 90 hours for £1 ; butchers' men were kept at work for 80 hours weekly for a wage of 17s. 6d., and sometimes much less ; warehouse porters got 25s. for 71 hours ; 18s. weekly were given to tanners for a ten-hours day, and 5s. to the boys engaged in the tanyards. The Rev. John Hoatson, vice-president of the Anti-Sweating League, gives his word, writing from personal

knowledge, that the instances cited by Mr. Mauger were not exceptional.[1]

In factories generally the payment of children, apprentices, and improvers was, even after the passing of the law of 1896, a fruitful field for evasion. The law said that no one employed in a factory should receive less than 2s. 6d. a week. Some employers countered this at once by demanding a premium from children's parents, a sum which they then complacently doled back at the rate of 2s. 6d. a week. Others paid the weekly 2s. 6d. on Saturday with scrupulous regularity, and took it back again with unscrupulous regularity next week. Elsewhere girls were paid the 2s. 6d., but worked month after month without increase. Cases came under the chief inspector's notice of girls who were kept at work for half a year to a year and a half on odd jobs without pay, under pretence of teaching them their trade, and were then dismissed at a moment's notice. In dressmaking and millinery there were instances of girls who, after five or six years' employment, were not getting more than 7s. 6d. weekly. In the city of Ballarat there were, wrote an inspector, scores of places too small to be legal factories, where one or two hands were employed—say at dressmaking—who got nothing at all, not even the statutory half-crown. In 1895, to such a pitch had the sham apprentice system been brought in the dressmaking trade in Victoria, that in fifteen registered factories there were no paid workers at all. The 2352 females employed in dressmaking were divided into three classes, thus :—

[1] "Anti-Sweating and Factory Legislation in Victoria," by the Rev. John Hoatson, *Westminster Review*, October 1900.

Number.	Average Weekly Wage.
349	Nothing.
1382	4s. 3d.
970	15s. 11d.

To employ boys and girls for little or nothing, under pretence of teaching them a trade, and then to teach them badly or not at all, was not, be it said, a malpractice confined to Melbourne alone amongst colonial cities. In most manufacturing towns a like state of things was to be encountered. The evil had not gone so deep, but everywhere were to be found "apprentices" who were not apprenticed, "improvers" who did not improve, and "learners" who did not learn.

In 1893 Mr. Trenwith, a noted trade unionist, and in after years the first of the Labour party to win his way into the Victorian Cabinet, reminded his hearers in a speech in the Legislative Assembly of the enthusiasm with which Australians had sent their money to London in 1890 to aid the famous strike for the dockers' "tanner"; yet, said he, in 1893 in Victoria men in many branches of industry were working for less than sixpence an hour. In biscuit works, indeed, operatives were getting but sixpence an hour for night work. In fourteen classes of factories the average weekly wage varied from £1 : 7 : 4 in the best-paid class to 9s. 1d. in the worst. In the former men only are employed, in the latter women only. In the clothing trade in 1896 the average made by all those employed—men, women, and children—was but a pound a week; and in five years the number of men in the trade had fallen off by nearly four hundred, while the women had increased by nearly eight hundred. The average weekly wage of bootmakers in 1897 was £1 : 3 : 3. In bad times, then, low pay was far from being confined to outworkers, to untaught girls and raw

youths, or to a few needy, half-skilled needlewomen. Official documents show the gradual process by which in Victoria, in the years before 1897, women-workers displaced men, children displaced adults, home-workers displaced factory hands, hours lengthened, and wages fell.

The most attractive city and the first commercial port in the colonies, Sydney, is still behind Melbourne as a manufacturing centre. The difference between them, however, is not so great either in climate or in the kind or extent of their industries that the conditions of labour should need to be very unlike. Nor were they very different a few years ago. If we read the Factories and Shops Report of New South Wales, describing the workers and their surroundings in the years 1897 and 1898, we find, especially in the earlier year, a melancholy likeness to the picture of industry in Melbourne at the same time. Some of the conditions were not quite so bad; times were better in New South Wales in 1897 than they had been in Victoria in the years of prostration after the bursting of the "boom." Speculation in Sydney had not been so wild; and though there had been a banking collapse in 1893, followed by a stern restriction of credits,—though droughts and low prices for produce had been casting their evil shadow on employer and employed, and wages had fallen, and the sweater was busy,—still the colony's fine territory, mineral wealth, and active commerce were enabling New South Wales to hold her own.

The Sydney Factories Report for 1897 is in one way a document of uncommon interest, for it was the first issued in the oldest of Australian colonies. Until 1896 there had been no legal regulation of factories worthy of the name; manufacturers and shop-owners had been

left to their own devices, for the municipal authorities did little to control them. Trade-unions were active in protecting the hours and pay of skilled mechanics, and did much to help men and very little to help women. As far back as 1855 the men belonging to the building trade had secured the eight-hours day by a successful strike. Eighteen years later the iron trade won it also; and by 1898 twenty-five unions could march in procession through Sydney on Labour Day and claim that they did not exhaust the number of those who enjoyed the eight-hours boon. Organised male adults may, however, win the eight-hours day and yet leave much to be done for labour. In one respect at least the Sydney factories in 1897 made a worse show than those of Melbourne. From 1885 onwards there had been regular sanitary inspection in Victoria, and even in the worst years of the depression the workshops generally were clean, airy, and well-lighted. In Sydney, thanks to past neglect, the inspectors found much that was unpleasant, and their reports reveal some things that were sickening. On the whole, the state of the larger factories was creditable; on the whole, that of the smaller was not, and there were buildings which in their utter disregard of cleanliness were a menace to the health of the community. The task of securing some degree of cleanliness and decency in such places was the heaviest part of the inspecting department's first year of work—work to which the inspectors addressed themselves actively enough, for they could claim at the year's end that 931 buildings had been in whole or part cleaned or altered. Many of these seemed to have been built without thought of ventilation. Surprisingly often the inspectors found an absolute want of consideration for women-workers in sanitary arrangements.

Europeans who only know colonies from books are apt to think that land there is always cheap, and ground space, therefore, easy to be had, even in cities. In Sydney, however, the inspectors found that much work was being done in underground rooms, basements, or cellars—damp, badly ventilated, and lighted by flaring gas-jets which heated the air and fouled it with their fumes. In one of these subterrannean chambers fifty persons were herded at work.

A few of the larger factory-owners had built good, clean dining-rooms in which their people could take the midday meal. These were the exceptions. In many buildings the hands never left the workroom from eight in the morning until five or half-past five in the afternoon; sometimes they would return after tea to breathe the same atmosphere then flavoured by the gas-jets. There was a touch of cynical humour in the system in force in one shop, the managers of which evidently believed in the injunction "to him that hath shall be given." To the men there, who were paid well enough, a hot and plentiful dinner was furnished daily. For the women, who drew a humbler wage, a cup of tea was thought enough. In furniture factories carried on by Chinese the men usually slept in the building in an upper room. After visiting a number of these chambers, the inspector dryly noted that he was much impressed with the need for limiting the number of persons sleeping in one room.

Often, where dangerous machinery was used, ordinary precautions against accident had not been taken. Most of the fly-wheels and lifts were found unfenced. Boys were allowed to work near circular saws; children were left in charge of lifts. After analysing the accidents reported in 1896, the inspector thought that a large

proportion were due to a want of proper safeguards. A year later, out of 150 factories of three or more storeys, only three were found to have satisfactory means of escape from fire. The hours worked in factories varied greatly. The rule was reasonable, but the exceptions were many. For a weekly wage of a few shillings many boys and girls worked up to and over sixty hours a week. The custom of having apprentices duly bound by indentures was, in Sydney as elsewhere, falling into disuse. The so-called apprentices were usually boys and girls who ran about the factories carrying messages, or who cleaned rooms or did odd jobs, or perhaps were put at one process of work, or in charge of one machine, week after week and month after month, learning that but nothing more. They were paid low wages or no wages at all, could be got rid of at the employer's will, and were often turned off for reasons good or bad before they had mastered their trade.

The law of 1896 limiting the hours of shop-boys and shop-girls to fifty-two weekly was often resented or evaded. After being prosecuted for a breach of it, a well-known firm employing a number of girls under eighteen dismissed every one of them. The law, too, directing shopkeepers to provide seats and allow their assistants reasonable use of them was met by the same shifts and excuses in Sydney as in Melbourne. In the one town as in the other inspectors had to listen to assurances that customers did not like to see girls sitting down, or that they were too busy to sit down. The seats were furnished, but it would be rash to affirm that the women were allowed to make use of them; that was the officers' conclusion. Miss Duncan, lady inspector, wrote, "The long hours, the fatigue of being always on their feet, the oppressive atmosphere of gas-

lighted, crowded shops, the necessity for constant alertness and civility under great provocation, the shortening of meal-hours, the tidying up of stock long after customers have gone, followed by the weary tramp home towards midnight,—in these are the price paid by the shop-assistant for the allurements of the 'cheap sale.'" In 1898 the same inspector noted the case of a fragile-looking girl of seventeen who had to spend ninety-two and a half hours weekly in a small shop. Of these hours twelve and a half were on Sunday. Her weekly recompense was less than a penny an hour.

Sweating as it existed in Sydney in 1897 and 1898 did not differ very much in its sordid details from the wretchedness of the same sad business in Melbourne. There was not so much of it, but what there was was dismal enough. The same want of combining and resisting power among sempstresses led to the same grinding down of wages and piece-rates, the same extraordinary difference between the pay of men and women, the same use of low-skilled and child labour, and of the sub-contractor, and all the hard conditions of outwork. The highest rates for outwork in the clothing trade were good, were often double, sometimes more than treble the lowest; but, as the report significantly observes further on, there was only a limited amount of work to be got at the higher rates—an abundance at the lower. Small wonder if whole classes of outworkers were described as earning a precarious livelihood by close and continuous labour. Many outworkers, of course, had other means of support and merely took jobs to supplement these. But where, as was frequently the case, there were single women with none to aid them, or widows with children, or even deserted wives, their lot was cruel. In Sydney

and the suburbs, while factories were being filled with boys and girls, the woman outworker had become a familiar sight. She was to be seen daily struggling to or from the factory with her heavy or shapeless bundle of cloth, sometimes a dead weight of nearly half a hundredweight, or perhaps she or her child had on each journey to expend 5 or 10 per cent of their bitterly earned pence in fares to enable one of them to carry the work by tramway or omnibus.

Nor were the rates of pay to factory hands in the clothing trade, though better, by any means good. They fell off between 1894 and 1898 in a manner which trenched on the margin of subsistence, estimated to be 15s. a week for single women living alone in Sydney. The average weekly earnings of a clothing factory piece-worker were estimated to be as follows in the years referred to :—

1894	25s. 8d.
1895	23s. 6d.
1896	17s. 8d.
1897	13s. 8½d.
1898	15s. 2½d.

These things, amongst others, led to strikes in Sydney in 1901 in the clothing and other trades. Combination won important concessions. But labour was not prepared to trust to temporary successes won in this way. It resolved to support a compulsory arbitration law on the New Zealand model. Accordingly, in 1901, the Arbitration Act of Mr. Bernhard Wise became law. With its aid the workers trust that the present general improvement in the conditions of factory life in Sydney will in all reasonable essentials be maintained, and that the abuses here sketched, most of which are now past and gone, will not be allowed to revive.

It is sometimes asserted that sweating is a disease that breeds and spreads almost entirely in large cities, and in them only. Colonists have spoken as if it was confined to a few holes and corners in Melbourne and Sydney. Unhappily, this is not true. The pleasant city of Brisbane in Queensland is but one-fourth of the size of Sydney, and has less than a quarter of the population of big Melbourne. With its wide streets, rich gardens, fine river, and loosely-scattered suburbs, Brisbane, as it lies spread over undulating downs in the warm Australian sunshine, looks about the last place on earth where human beings ought to find the struggle for life too hard. Yet in the Queensland Parliament, sitting in Brisbane in 1898, a member, Mr. M'Donnell, stated that there were hundreds—nay, thousands—in the city who had to battle fiercely to secure even a miserable starvation wage. That, said Mr. M'Donnell, was not the raving of an agitator, or the vision of a faddist, but could be proved from official documents. And, indeed, these documents, the reports of the Queensland inspectors of factories and shops, amply bear him out. The scale of industry in Brisbane was smaller than in Melbourne or Sydney, and the sweating system therefore affected fewer human beings. Otherwise the evil was the same. Bakers, asserted Mr. M'Donnell, usually worked from sixty to eighty hours a week in Brisbane, and seventy-two hours in the town of Rockhampton; and he contrasted these hours with the forty-eight hour week which the Melbourne bakers had just gained under the declaration of the Wages Board, granted them by the law of 1896. The pay in Queensland and Melbourne was the same, but the Queensland bakers had to work half as long again for it.

But in Brisbane, as elsewhere, the hard cases were

mostly found among women and children. The reports showed that between two and three thousand factory women and girls were employed in the city and suburbs in 1896, of whom more than half (1350) were earning 10s. a week or less; and next year the number rose to 1427, of whom 372 were over eighteen years of age. In the first year, 104 were getting nothing at all; in the second year the unpaid division had increased to 172. Overtime was greatly abused. In confectioners' shops and restaurants the ordinary hours were from seventy to seventy-eight a week, and sometimes over eighty. In one shop three girls worked fourteen hours a day—without leaving the building for meals—for six days a week, and then had to serve for seven hours on every other Sunday. For this two of them were paid half-a-sovereign a week each, while the fortunate third received twelve whole shillings. The proportion of factory hands who worked overtime in Brisbane in 1898 was just double that in New Zealand—22¼ per cent against 11 per cent, while the hours of overtime which each one worked were nearly one-third more. Young workers whose homes lay miles from the factory would sometimes be suddenly told in the afternoon that they must stay and work until late in the evening. No tea would be given them. If they had a few pence about them to pay their fare home, they could buy themselves a little food with the coppers meant for omnibus or tram, and trudge home afterwards in the dark, or they could go without an evening meal.

The busy time in most factories and shops in the towns of Queensland is also the hottest season of the year, when women and children are least able to endure special stress. As usual, overtime appears from all accounts to have been most heavily exacted from the

laundry women, just the class who, in the Queensland climate, should be saved from it. What work in unsuitable rooms can be like within thirty degrees of the equator is hinted at on page 3 of the Factories Report issued in 1889, where the chief inspector writes of work-rooms with roofs and walls of galvanised iron, where perhaps the roofs were low, and a stove for heating irons or boiling liquids radiated a stifling heat. Such places, where in the busy season eleven hours' hard work had often to be done, would become veritable torture-chambers as the long hours of the semi-tropical day wore on. In the year 1898, too, the sanitary state of the Queensland factories, though much had been done to improve it under the Act passed two years before, was still far from being what the inspectors would like, or what they hoped to have it. Their reports amply justified a more advanced law, and in 1899 such a law,—one of the best Factories Acts in Australia,—was enacted.

Curiously enough, the spread of such sweating as there is in South Australia has been chiefly during the last decade, and during the years when in other colonies efforts varying in energy and success were being made to stamp it out. Its migration to Adelaide has been attributed, indeed, to the restriction placed upon it in Melbourne and, though to a lesser extent, in Sydney. The sweater, hampered elsewhere, was beginning in 1899 to look upon Adelaide as a city of refuge, and the danger of an extension of his operations was clear enough to induce the Government and Parliament of South Australia in 1900 to follow Victoria's example in taking steps to bring those operations to a summary end. At the beginning of the year just named the

chief inspector of factories wrote, "That sweating does exist, and is fast gaining ground, is only too evident. . . . Every year the prices paid fall lower and lower, till it is only by downright slavery that those employed can manage to earn enough to procure the necessaries of life."

Any legal regulation of factories was then only five years old in South Australia, and as by 1899 between eleven and twelve thousand people had to be looked after, regulation, such as it was, came none too soon. There had been much to do to abolish what the chief inspector called "the old order of dirt and litter," and even in 1899, despite a steady and marked improvement, a good deal remained to be done. Decency in the way of proper provision for female workers was sometimes ignored; comfort in the shape of lavatories for washing was usually neglected. There were a few complaints of excessive overtime, and there was the usual misuse of an unreal apprentice system. The girl who was taken on for a month without pay, who worked for six months for half-a-crown a week, and was then sent packing on some excuse or other, was to be found in Adelaide as elsewhere. But the chief industrial mischief took the familiar form of sweated outwork carried on either in homes or in rooms too small to be legal factories. As in Melbourne, an Asiatic element made matters worse. Cheap-jacks—Chinese, or those Orientals who in the colonies go by the odd name of Assyrians—had almost gained a monopoly of hawking and peddling. They employed white women to make up cheap articles of sale for them, and though they professed to pay fair wages, their sempstresses told a different story. In Appendix E to the South Australian Factories Reports of 1900 will be found chapter and

verse for the opinion of the chief inspector on the spread of sweating. A page and a half of small print are filled with extracts from inspectors' notes. No names and addresses are given, and the identity of the workpeople concerned is wrapped up as carefully as possible so as to protect them from the consequences of giving information to inspectors—consequences which were no less pitiless in Adelaide than in other towns. In all, eighty-seven hard cases are quoted in Appendix E. Some refer to a single worker, some to a number. I will only mention one. Miss Milne, inspector, reported in a few sentences the story of a husband and wife who toiled together for their pittance, till the man, who was an invalid, broke down and died. The woman, with tears in her eyes, protested to Miss Milne that he had been starved to death. He would try and help her with her work, sitting up till the small hours. She could not buy him proper nourishment. Though they were in Australia they could not afford a reasonable allowance of meat. Often they had to go without breakfast. To Miss Milne it seemed that human flesh and blood were being bought and sold too cheaply in Adelaide. The South Australian Parliament thought so too, and, a few months after the appearance of the reports from which I have been quoting, they adopted, *en bloc*, the Victorian system of wages boards and legal minimum rates.

The details of the seamy side of factory life and of the sweating system in particular reproduce themselves almost everywhere monotonously enough. Yet for the purpose of this chapter it is necessary to show how inevitable this lowering tendency is or has been throughout the seven colonies, and the family likeness of the

lines on which colonial sweating-systems have moved in very different places. I must, therefore, ask the reader to have patience for yet a few pages more, and to travel with me from Australia to New Zealand, and from Adelaide in 1899 to Dunedin ten years earlier. Dunedin is a representative New Zealand seaport town of the larger kind—clean, busy, with its substantial-looking houses not huddled too closely together, and with gardens and recreation grounds in plenty. It is the headquarters of the powerful Scottish element in the colony, and a dozen years ago had a population of some 45,000—now grown to 53,000—spread through town and suburbs. In 1889, like many other colonial towns which drew their business mainly from alluvial goldfields and grazing country, Dunedin was passing through a cycle of bad years. But though the community was under a commercial cloud, which has since rolled away, it came as a surprise to its people, and a blow to their sturdy self-respect, to learn that the sweating system had established itself amongst them. This news they learned from a series of articles published by the *Otago Daily Times* in January 1889. Appearing as they did in the best written Conservative morning paper in the colony, a journal distinguished amongst its fellows for caution and restraint of language, they caused a sensation which was not confined to Dunedin or the province round it.

In the newspaper's own words, the exposure showed a sorry state of affairs amongst the sempstresses in the town. Honest competition had been departed from, petty haggling and underhand dealing had been practised, and well-meaning traders had been handicapped and compromised by one or two delinquents. Starvation wages, in consequence, were being paid to a

large number of women and girls; the pay of finishers and machinists had fallen 23½ per cent all round, and the fall was greater still amongst the worst treated outworkers. Nor was the mischief confined to wages; needlewomen were working intolerable hours to make both ends meet out of their wretched rates of pay, and the health of some of them was manifestly breaking under the strain. Here was found a room filled with girls who looked strongly built, but jaded, dazed, and unnaturally listless; there a lonely sempstress with the life wellnigh crushed out of her. The process of degrading trade and workers had nothing novel about it: it was that to be encountered in the clothing trade in a thousand other towns. Warehousemen, under stress of a competition which several of them honestly hated, were giving out contracts to small firms, or to individuals, sometimes women, who set up little workshops employing handfuls of women and young girls. Or the solitary outworker, the humblest pawn of the sweater's game, was brought into play. In Dunedin, too, the class who looked to sewing as a partial support, or even as a mere source of pocket-money, were the worst enemies of the drudges who had to live by the needle's earnings alone. To quote the rates paid and the toil exacted in return would be to give a dismal repetition of Australian extortion. One woman deposed that she might make three-and-sixpence on a good day, but it would be by stitching from half-past eight in the morning until eleven at night. Yet she counted her lot at the time almost happy, for she had lately escaped from a factory where, do what she would, she could not earn more than eighteenpence daily by working until all hours of the night. Another sempstress, speaking for her companions as well as herself, stated that without

taking work home from the factory at night they could not make more than fourteen shillings weekly. So they took it home and stitched till eleven o'clock or midnight. "You say that we cannot do that day after day," said this witness, "but we have to, and do." An outworker was found who had had to sew through Sundays to make up her weekly receipts to twelve shillings. When finishing cotton shirts at eighteenpence a dozen she could get through a dozen and a half in the factory between nine o'clock and six in the evening; then she carried a dozen more home and sat up sewing by lamplight until they were finished. They might be done before midnight or after. On one of these evenings she had a stroke of good luck. She was allowed to take away a dozen flannels to finish as well as her dozen shirts. Both bundles were done when she went to bed—at three o'clock in the morning—and by that night's work she earned a whole shilling.

The other newspapers of the town followed the lead of the *Otago Daily Times*, and the public conscience was touched. Dunedin was, perhaps, the unlikeliest town in the colonies to tolerate sweating. The citizens had not forgotten that it had been two Dunedin men, Sir John Richardson and Mr. Bradshaw, who had done whatever had been done in New Zealand until then in the way of factory legislation. A committee was formed to devise means to rid the community of the new social apparition, and leading men of all classes joined it. They sent to Melbourne and brought thence the log of the Victorian tailoresses, whose union was then flourishing, though it was soon to fall on evil days. The committee then did their best to arrange with the warehouse firms of their own town for the enforcement of a similar tariff. When the warehousemen seemed readier with benevolent

expressions than with concerted action, the agitators set to work to rouse a public demand for an effective factory law, and to organise a local tailoresses' union. The effective law came, though not just then. The union was organised then and there. Once organised, the tailoresses were able to secure a log which became an example to the trade in other parts of the colony. From that time forward, moreover, the employers were themselves ranged—not unwillingly in most cases—on the side of unionism, and some of them encouraged an active unionist propaganda in other provinces. The Dunedin tailoresses' union was strong enough in 1892 to spend £400 in helping the less fortunate sempstresses of Auckland in an attempt made to form a union in that town. Though this particular attempt failed, the effort was not thrown away, for it helped to stiffen the support then being given to the Industrial Arbitration Bill. When, later on, there seemed some danger of matters in the clothing trade going backward in Dunedin itself, the critical time was over; a few grasping men could no longer demoralise a whole trade; the strong hand of the Arbitration Law could make itself felt. For when, in 1899, out of forty-five Dunedin employers, seven refused to agree to the log then freshly arranged between the workers' union and the majority of masters, the unions were able to take the minority before a State tribunal and have the whole trade bound over to pay fair and uniform rates. Never since 1889 has the sweating evil gained anything like a hold on Dunedin, and the good seed sown by George Fenwick of the *Otago Daily Times* and his friends may be said with the driest accuracy to have borne lasting fruit throughout the colony. In an official factory report, written in May 1895, I find that an impartial female inspector was impressed by the

excellent arrangements of the larger Dunedin clothing factories, the fine physique and healthy look of the work-girls, and the advantage which their strong union and uniform rates of pay gave them over many of their fellow-workers in other towns.

The factory reports which have been issued yearly in New Zealand between 1891 and 1901 do not show very much in the way of sensational disclosures of insanitary surroundings and excessive hours of labour. A little of this may be due to the cautious wording of the reports, which, indeed, seem to aim rather at stating general conditions and results than at exposing particular instances of oppression and discomfort. But more of it is due to the good fortune of the colony in the circumstances amid which the factory system was set up in the islands. The first woollen mill there was opened not more than about thirty years ago, and though from time to time manufactures grew steadily, they were still on a very humble scale until the end of the seventies. During the next decade they developed faster, and the wave of humanitarian and socialist feeling which dates from 1889 came none too soon; but come it did, and in 1891 something like a good factory law was enacted, the beginning of a system of regulation which is now fairly effectual. Long before 1891, as far back as 1873, the principle of an eight-hours day for women and youths had been agreed to by the colony's parliament. The factory system in New Zealand, therefore, was caught young. In all respects but one the regulating laws very nearly kept pace with the need for them. Over and above laws, the absence of large cities, the strong public sentiment in favour of thorough-going education for all classes of children, and last but not least, the exceptionally healthy and pleasant climate of the islands, all

counted on the workers' side. They had neither to endure the trying heat of the Australian summer, nor the long cold months of short daylight and gloomy sky that darken half the year in northern Europe, Canada, and many parts of the United States.

When, however, effective factory inspection made a start at the beginning of 1892, the New Zealand inspectors found plenty to do. In the first three months they had to stipulate for improvements and alterations in 913 factories. Many of the smaller workshops were badly overcrowded—one employer had packed seven girls into a space "scarcely larger than a piano-case"—and the sanitary arrangements in many buildings where both women and men were employed were often behindhand. Occasionally there were none. In sawmills and sash-and-door factories old-fashioned polishing grinders were found filling the air with fine particles of wood mixed with atoms of glass from the glass cloth. Many cases were noted in which boys were worked long hours for low wages and without proper intervals for food and rest. In one of the chief towns there were hardly any factory dining-rooms, and many of the buildings were old and unsuitable. In the larger factories—excellent in most ways as they were—there was scarcely any provision for escape from fire. In the small country workshops the first woman inspector observed a general primitive condition of things which had to be gradually brought up to a civilised level. Still, with all this, it could fairly be claimed that by 1896 bad sanitation and excessive hours had been almost hunted out of factory life. The workers' grievances did not lie there.

Wages in the colony fell generally between 1879 and 1895. Here and there a well-organised men's union was able to arrest the process, and the good work of the

Dunedin women's union—which was followed up in Christchurch, another large town—has been described. But, on the whole, the sixteen years were an era of low prices for the colony's staple products and of reaction from feverish land speculation and the inflation caused by bad banking. The labour of women and children was used more and more freely, and here and there individual factory managers and shopkeepers were exploiting its helplessness and embarrassing their fairer-minded fellows by this mean form of competition. There was the same manipulation of a sham apprentice system as in other countries. In 1895 there were in the colony 591 factory girls who were getting no pay for their work, and 175 who were paid half-a-crown a week or less, while three years afterwards the number of unpaid young girls had risen to 872, of whom 733 were supposed to be learning dressmaking or millinery. Adult dressmakers in a small way of business were glad to go out and work in private houses for two or three shillings a day. The women's factory inspector found a first-class machinist getting 12s. 6d. a week, and reported in the year 1895 that she noticed an excessively low rate of pay in the country districts. In Wellington and Auckland homework was noted by her as an evil to be combated. More and more widely the custom was spreading amongst girls and women of taking work at low rates to earn pocket-money or aid male breadwinners—a custom utterly disastrous to the unlucky workers who were entirely dependent on their own earnings in the same trade.

To write this chapter has been a disagreeable necessity. It indicates some of the conditions of labour which have been the justification of the regulating laws of the last decade. It has not told the whole story of

the effects of competition, for to do that would have been to sicken the reader with a dreary reiteration of the misery and discomfort which, ten years ago, had begun to environ the weaker, less skilful, and worse organised colonial workers in their struggle for life. It has dealt so much with the lot of women and child workers because it was the exploitation of these and the wrong done in the process that awoke colonial public opinion to the need for industrial laws. It has not attempted to deal with both sides of industrial life, but only with the seamy side. How different the fair side of colonial working life is every one who has lived in or travelled through the colonies knows. It would be unjust not to say again, as clearly as can be said, that most colonial workpeople are and always have been better off than their fellows in other countries. It would be wrong to suggest that most colonial employers are not ready and willing to deal fairly, according to their lights, with those in their service. It would be unfair not to bear frank testimony to the general good humour and honesty with which most employers have accepted and complied with recent restrictive laws which must have seemed to many of them meddlesome and oppressive. Moreover, scarcely any of the bad features described or hinted at in this chapter are now growing worse. On the contrary, the worst of them have disappeared, and others are disappearing under the pressure of State regulation. How this is being brought about it will be the business of forthcoming chapters to show. Meanwhile these pages are printed as a brief justification. If they do not show how needful are the righteous shops and factories laws of Victoria and South Australia, with their system of wages boards; how crying was the want for the less thorough but still valuable

Factories Act of Mr. Garrard in New South Wales; how badly wanted were the laws which are now bringing Queensland into line with the other colonies — then I have put the case very clumsily. In the same way, if I have not proved that the series of laws passed in New Zealand between 1891 and 1896, the keystone of which is Industrial Arbitration, did not come too soon, then the failure must be charged to my pen.

Factory Laws

Factory legislation in New Zealand, as in Victoria, dates from 1873. In September of that year a brief Bill of seven clauses, dealing with the employment of females, was read a second time in the House of Representatives, and became law a few weeks afterwards. Moved by Mr. J. B. Bradshaw, it had been suggested by the short Victorian Bill which also reached the statute-book in that year. The passage of Mr. Bradshaw's measure through the New Zealand Parliament leaves an odd impression of the indifference of the legislators of the day to the beginnings of factory life. In the Lower House the Bill was read a first and a second time without a sentence being spoken. The journals of the House show that it was committed, amended in three particulars, and reported; but the *Hansard* staff did not apparently think these incidents worthy of notice, for it did not record them. It was read a third time after two short speeches, and then went to and through the Legislative Council without a word being said by any one in that then unsuspicious body. Very differently did the Council treat Labour Bills in after days. The solitary opponent of Mr. Bradshaw's Bill in the Lower Chamber protested against copying Victorian examples

which were inapplicable to a colony where there were no factories—at least he knew of none—unless it were that a few females were employed in Auckland and a handful of women might be working for drapers in Dunedin. He feared that the measure, instead of protecting factory hands, would prevent the establishment of factories. In these words this gentleman gave voice briefly to arguments which have been repeated year after year, and time after time, at much greater length, from 1873 unto this day, when New Zealand has more than 50,000 factory hands. Doubtless the same apprehensions will be as sincerely felt and as earnestly uttered when the colony has a quarter of a million of men and women in its workshops.

Yet if the interest shown in a Bill were always commensurate with its importance, the short Workshops Act of 1873 would have been closely and keenly debated. In its few lines was embodied the principle that no woman or girl-child should work for more than eight hours a day in a workroom, and that the employment of a single person of the weaker sex in working on articles for trade or sale should be enough to bring a place within the definition of workroom. At a single step the colony went as far, in principle, as any regulators of women's factory hours have dared to go since. The Act indeed expressly excluded piece-workers, and ignored the saleswomen in retail shops, and males of all sorts and conditions. But it prohibited factory work for females between two o'clock on Saturday afternoon and nine o'clock on Monday morning; enacted that the beginning of the regular day's work should not be earlier than nine in the morning or its end later than six in the evening; and secured four specified holidays in the year, as well as the Saturday half-holiday, all

without loss of wages. One of its seven clauses dealt with sanitation, and was probably the briefest specimen of that difficult branch of legislation to be found in any statute-book. It ran: "All workrooms shall be properly ventilated."

During the next twelve years a series of small amending Acts were passed to cure the more obvious defects and supply the more patent omissions of the pioneer Act. Women on piece-work were put on the same footing as those on time-work. Children between the ages of ten and fourteen were put on half-time, and in 1881 the factory age was raised to twelve years. Females and persons under eighteen were to have extra pay when working overtime. In 1890 the social awakening, the arousing of the trade unions, and the revelations of the anti-sweating agitation of 1889 in Dunedin, led to the appointment of a Royal Commission to inquire into the state of labour and industry; and, though there was not very much of the salt of thoroughness in the Commission or its report, it led the Government of the day to lay before Parliament several Labour Bills, amongst which was a Factories and Shops Bill somewhat on the lines of the Victorian law of 1885. The portion of this dealing with factories was passed next year, much amended and improved, by the Progressive Ministry which came into office at the beginning of 1891. But three years later this Act was in turn swept away, for in 1894 the Progressives felt strong enough to go further; and the result was the Factories Act of that year, which at the time it was passed was probably the most advanced law of its kind. It influenced factory reform in other colonies. In New Zealand, where it was passed in the same year as a law regulating retail shops and as the Industrial Arbitration Act, it marked

the beginning of a new epoch in the regulation of industry. It remained law for seven years, and was only superseded in 1901 by the still more advanced Factories Act of that year, in which the New Zealand law on the subject is now contained. Taken by itself, this last measure has not the extent or interest of the Victorian Shops and Factories Acts of 1896 and 1900; but when read together with the contemporary New Zealand laws bearing on labour inside and outside factories and shops, it plays an important part in a thoroughgoing system of industrial regulation of greater range, elasticity, and minuteness than the Victorian, far-reaching as that is.

In New Zealand every factory must be registered, and its owner must pay a yearly fee, rising from a shilling to fifty shillings, according to the number of persons working for him. A factory is any room or place where two or more persons are engaged, or where there is machinery driven by artificial power for preparing articles for trade or packing goods for transit. Every bakehouse, every laundry, and every place in which an Asiatic works in the manner just mentioned is a legal factory. The occupier of the factory is counted as one of the two persons required to constitute a factory, though where an employer and his wife work together they are counted as one only. In this way the smallest workrooms are made factories, and this perhaps is the most distinctive feature of the New Zealand regulative system. The sections of the Act providing for ventilation, air-space, cleanliness, fresh water, fire-escapes, time for meals, dining-rooms, necessary powers for inspectors, are fully and carefully drawn, but contain little that would be new to students of factory laws elsewhere. The same may be said of the provisions in

New Zealand for guarding machinery and reporting accidents in factories, most of which, indeed, are to be found in another statute, the Inspection of Machinery Act.

Factory owners have to keep records of the names, work, and wages of all their hands, and of the ages of all those under twenty. They must also record the quantity and description of all work given to outworkers, with the names and addresses of the outworkers and their remuneration. This regulation applies to any man who, without having a factory of his own, gives out materials to be made up by homeworkers or contractors. No contractor who takes work from such a person or from a factory owner may sublet it. No factory hands may take factory work home with them to be done out of hours. For infringing this rule contractor and factory owner, master and employee, are alike liable to a penalty.

All clothing made for sale, if made, or partly made, in a dwelling or unregistered workroom, must be ticketed with a label, which must not be removed before the clothing is sold, and which is in this form :—

MADE BY ANNE BROWN
IN NUMBER 3 CUSTOMS STREET
IN A
PRIVATE DWELLING
OR
UNREGISTERED WORKSHOP
Affixed under Factory Act
Any person unlawfully removing or defacing this label will be prosecuted

Generally the factory hours for male workers are not to exceed forty-eight a week (section 18). But men

engaged in getting up steam for machinery are excluded from this proviso, as are the following industries :—

1. Freezing-works.
2. Dairy factories, including creameries.
3. Fellmongeries and pelt-works.
4. Fish-curing and preserving-works.
5. Jam factories (during the small-fruit season).
6. Bacon factories.
7. Sausage-casing manufactories.

Moreover, any awards limiting hours made by the Arbitration Court after the passing of the Factories Act may override this section; and in January 1902 the Court, with the consent of the masters and workmen concerned, fixed the hours for the bakers in Auckland at nine and a half daily.

The legal hours for females and boys under sixteen are forty-five, except in woollen factories, where they are forty-eight, a week. The women's work must be done between eight in the morning and six in the evening (the boys may begin a quarter of an hour earlier), except on Saturdays, when there is a half-holiday, beginning at one o'clock, which must be given to piece-workers as well as time-workers. Women and boys are also entitled to six whole holidays a year, including Labour Day and the King's Birthday. Hours of work may be varied by inspector's permission, but in no case so as to exceed eight and a quarter in any one day.

The written consent of an inspector must be obtained before overtime may be worked by women and boys under sixteen; and they cannot be permitted to work more than three hours in a day, or on more than two days recurring in a week, or thirty days a year, or on any holiday or half-holiday. All overtime must be especially

paid for, and the extra pay agreed on for it must not be less than sixpence an hour for those whose weekly wage is not more than ten shillings, and ninepence for the higher-paid classes. The version of this clause in the Act of 1894 was probably the first legal stipulation for a minimum rate of pay enacted in the colonies. It was expected to reduce greatly the amount of overtime worked in the colony, but did not do as much in that way as was prophesied. When trade was brisk the employers paid the extra money rather than delay to execute orders. The rate of overtime pay for piece-workers must not be less than a quarter more than ordinary rates.

Children under the age of fourteen may not work in factories. The inspectors may grant permission for younger children to work in the smallest kind of factories, but permission is seldom granted. Factory children between fourteen and sixteen must have a certificate of physical fitness, and must have passed the fourth standard in the State schools, or an examination equivalent thereto.

Any parent who connives at the employment of a child in breach of the Act is liable to a fine. Every child employed in a factory must be paid; and the minimum wage is five shillings a week for boys and girls under sixteen, with a yearly increase of three shillings until they are twenty. The wages must be paid in full at least once a fortnight, and are irrespective of overtime. No premium for employment or apprenticeship may be given or taken.

A factory inspector may sue on behalf of a factory hand for any wages due to him or her. In factories where articles of food and drink are being prepared for human consumption, an inspector may call upon

any worker apparently out of health to submit to a medical examination, and may forbid him from working until he obtains a doctor's certificate.

Though an immense deal of good was effected in New South Wales—or rather in Sydney and the district round—by Mr. Garrard's Factories Act, the Act itself is not very interesting or venturesome. Compared with contemporary laws in neighbouring colonies, it is a mild enough enactment. Its value must be measured by the great advance which it marked in New South Wales. The systematic inspection done under it—a complete novelty in the colony—has not only greatly bettered the lot of Sydney factory workers, but has provided badly-needed information for those who may take up the task of further reform. Mr. Garrard would have gone further in 1896 had the Upper House let him. As it was, he was permitted to insist on sanitation and the fencing of machinery, and to put some limit on the excessive hours often worked by women and boys. Thus a host of evils were swept away. True, the general definition of "factory" in his statute—a place where four or more persons work, or where steam or mechanical power is used—leaves the smaller workrooms without control; and the definition is made still looser by a clause exempting all workshops where those at labour are members of one family. On the other hand, all Chinese workrooms are factories. The factory age for children is fourteen, though official permission may be given for the employment of children of thirteen. Forty-eight hours is the week's working-time for females and boys under sixteen. Overtime may be worked on thirty days in the year—or, by special departmental permit,

on sixty days—and must be paid for as time and a half. The regular day's work of boys under sixteen and girls under eighteen must begin after 7 A.M. and close not later than 6 P.M. Meal-rooms need not be provided except by special direction of the Minister in charge of the Factories Department, and five hours' work may be done between meals. The sections dealing with sanitary matters and dangerous machinery are well drawn, and there is the usual clause requiring records of wages and hours to be kept; also of the names, addresses, and payment of outworkers—a requirement which enables the inspectors rather to show the existence of sweating than to check it. It was in having frowsy rooms cleansed, and neglected, ill-smelling premises made wholesome, in bringing fresh air into ill-ventilated corners, securing space for the overcrowded, and lessening the dangers run by adults and boys employed amongst or about machines, that that novel apparition in Sydney—factory inspection—has so far done its best work.

Like New South Wales, Queensland went without a factory law until 1896. Then an Act was passed which, though the means of bringing about many changes for the better in factory life, contained in itself nothing that was novel or experimental. It followed English lines for the most part, with one or two improvements adopted, it would seem, either from Victoria or New Zealand. The "factory number" was four persons, except in the case of workrooms where any Asiatics were engaged. The word "Asiatics" was used in Queensland, instead of "Chinese" as in more southern colonies, probably because Japanese had begun to come thither. Bakehouses and laundries were specifically declared to be factories. The lowest age

for factory children was fixed at fourteen, and the regular working hours of women and boys under sixteen at forty-eight a week. Unhappily, the effect of the latter limit was spoilt in part by the laxity of the overtime clause. The statute allowed overtime to the extent of three hours a day to be worked on any fifty-two days in the year which might suit the employer's convenience. This virtually meant that in the busy season of trade—usually also the sultriest season of the year—the factory hours might go up to sixty a week, or, conceivably, to sixty-six. Nor did the law insist in such cases that tea-money or extra pay should be given. This compared very badly with the severe restriction of overtime in Victoria, where it had been cut down to a maximum of ten days a year, no two of which were to come in the same week; while hands working overtime must be paid half as much again as for ordinary time, and have sixpence given them for tea-money. In New Zealand, too, as we have seen, fairly strict precautions had been taken against the unfair manipulation of overtime by masters or their managers and foremen; and even in New South Wales the restrictions were closer than in Queensland. Another oversight was that free play was left to the sub-letting of clothing and other work given out from factories. When, however, we remember the intensity of the class feeling stirred up in Queensland by the shearers' strikes, and the struggles and defeats of labour in the years between 1890 and 1895, the surprise is not that the factories law of 1896 was mild, but that its author, Sir H. Tozer, could pass any industrial reform at all through a Parliament controlled by exasperated representatives of capital.

Not only was his law enacted, but it was enforced,

and, as is often the case, its enforcement led to the revelation of discomforts and hardships amongst factory workers calling for a further measure of redress. Though the Conservatives stayed in office, their leaders did not shut their eyes to this, and in December 1900 another Factories and Shops Act was passed, which did much to bring Queensland into line with more experimental colonies. The New Zealand factory number —two persons, counting the employer—was adopted, though family workrooms in dwelling-houses were still excepted. Elaborate provision was made for sanitation, decency, and the inspection of boilers; and for posting up necessary notices in workrooms, and keeping full and intelligible records. After one month's probation no person under twenty-one was to receive less than half-a-crown a week for his or her services; and no premium was to be paid or taken for employing any boy under sixteen or any girl under age. The days on which overtime might be worked were reduced from fifty-two to forty; the factory owner had to obtain the Minister's permission for it, and this was never to be granted for more than two consecutive days. In no case were the women and boys to work for more than fifty-six hours a week, or after half-past nine at night, or on Sundays. Overtime was to be paid for as time and a half, and the extra rate was never to be less than sixpence an hour. On ordinary days no girls under eighteen or boys under sixteen were, except by special official leave, to work after six in the evening or before six in the morning, and all females and boys in a factory were to have their mid-day meal in the same hour, and also begin work and leave it off together. So much for the parts of the Act dealing with factories; the part of it relating to retail shops will be

summarised in a later chapter. Meanwhile, it will be seen that, as far as factories are concerned, Queensland —otherwise than in the highly important matter of wages—has now very little leeway to make up. Her latest law is full, advanced, and bears the stamp of careful draftsmanship.

The Minimum Wage Law in Victoria and South Australia

In 1901 a Royal Commission sat in Melbourne to inquire into the working of the Shops and Factories law of 1896. Some of the evidence given before it was hostile to the law, as might have been expected. Paragraphs appeared in more than one well-known London newspaper suggesting that the Act had caused and was causing friction, and had even led, in one case, to a suspension of industry. A set of indignant masters (fellmongers) shut up their works in the latter part of 1901, and months later two of the largest were still closed. Without denying that the law has been and is hotly criticised in the colony, and without suggesting that it has yet emerged from the stage of experiment, I will point out that Victorian manufactures have managed to thrive under it, and to regain the place which they held in 1890, but lost so lamentably after the banking panic and the collapse of what is commonly called the Melbourne land boom. In 1890, when Victoria was enjoying the inflated prosperity for which she afterwards had to pay dearly, the number of hands employed in the colony's factories was 47,813. In 1894, with commerce in the trough of the depression, this number sank to 34,268. In 1901 it had risen to 56,945. Whatever, therefore, the minimum wage law may have done, during the first

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five years in which it has been applied, it has not been generally ruinous or terrifying.[1]

The Factories and Shops law of 1896, under which legal minimum wages were for the first time fixed in Australia, was one of a series of factory laws the first of which was a little statute passed in 1873. This, the pioneer of its race in the colonies, laid down that no girl or woman should work for hire in a factory for more than eight hours daily. True, the little law gave the Colonial Secretary power to suspend the definition of a factory—a power often used and misused, sometimes with the connivance of the workers themselves. True, it ignored all places where less than ten persons were at work. True, also, the ten had to be working for hire: the Act forgot that there are such persons as unpaid learners, who require more safeguarding than paid hands. Still, a beginning had been made, and a good beginning.

The next step forward was taken by a second law, that of 1885. This was the outcome of the plain-spoken report of a Royal Commission which had sat in the year before to inquire into alleged sweating. By the law of 1885 the number of persons needed to form a legal factory, which had hitherto been ten, was reduced to six, including apprentices, and employers were ordered to keep a record of outwork. The best parts of the law of 1885 were those enforcing cleanliness, air space, the requirements of decency, and the fencing of machinery. Under these clauses much good work was done by the Government inspectors. As

[1] A part of the increase since 1893 may be set down to the amending law of that year, which reduced the number of persons required to constitute a legal factory from six to four. This, however, would chiefly affect the comparison between 1893 and 1894. Since 1895 the increase of factory workers has been nearly 21,000.

Melbourne and the other towns grew larger and were better built, hundreds of dilapidated old buildings were pulled down and replaced by better factories. The inspectors saw to it that the arrangements in them were good. How unsatisfactory the condition of numbers of factory and shop workers remained in many other respects, and how miserable was the lot of the sweated outworkers, the reader has already been told.

For ten years there was little or no change in the law. Not until 1893 was any real step forward taken. In that year the number of hands necessary to constitute a legal factory was reduced from six to four; but by that time, thanks to the revelations brought about by anti-sweating agitation, public feeling was thoroughly roused; the principle of a fixed minimum wage, which should be a living wage, had been adopted both by a resolution of the Lower House of Parliament dealing with Government workpeople and by the Metropolitan Board of Works for Melbourne, and the Act of 1893 was not accepted even as a stop-gap. A far bolder and more thorough-going measure was drafted by Mr. Peacock, afterwards Prime Minister of the colony, and after a sharp struggle with the Legislative Council became law on the 1st October 1896. In no other colony, at that time at any rate, could such a measure have become law, and only the Melbourne newspapers' courageous exposure of the sweating that had been going on year after year in that city and elsewhere in Victoria, confirmed by the evidence given before the board of inquiry, in 1893, and backed by the agitation of the Victorian Anti-sweating League, could have formed a public opinion ready to accept so strange and novel an experiment. Venturesome and full of new features the measure indeed was. Most students of

labour problems have by this time heard of one feature —the wages boards. But the interest of the Shops and Factories Act of 1896, with its various amendments, is by no means confined to these. These laws introduced changes so many and so vital, they mark such a striking departure in the history of Australian industrial law-making, that I make no apology for quoting here parts of the official summary of their chief clauses, prepared by the Victorian Factories Department, and published in the annual report issued in June 1901. These all relate to factories. The portion of the law relating to shops will not be touched on in this chapter.

Provisions of the Factories and Shops Acts

The Acts apply only to cities, towns, and boroughs; they may be extended to shires by the Governor in Council.

Factories and workrooms must be registered. Fees ranging from 2s. 6d. to £3 : 3s. are charged for registration.

A factory or workroom is any place where goods are prepared for trade or sale, and in which—

(*a*) Four or more persons are working;
(*b*) Steam, water, gas, oil, or electric power is used;
(*c*) One or more Chinese are working;
(*d*) Furniture is made, or bread or pastry is baked for sale.

Nothing in the Acts applies to creameries, butter or cheese or concentrated or condensed milk factories, or to dairying or agricultural operations outside the metropolitan district.

Factories and workrooms must be approved by the local municipal council or the Chief Inspector before being registered. Regulations are made by the Board

of Public Health for the guidance of the councils and the Chief Inspector in granting such approval.

Inspectors of Factories have power to enter and inspect factories, and to question employees either alone or in the presence of the employer or his agent.

Occupiers of factories who give out work must keep a record of it in prescribed forms.

The Chief Inspector must prepare an Annual Report, and occupiers of factories must furnish statistics for that purpose.

Persons preparing articles of clothing or wearing apparel for sale outside factories must register their names and addresses with the Chief Inspector.

Special boards may be appointed to fix wages and piecework rates for persons employed either inside or outside factories in making clothing or wearing apparel or furniture, or in bread-making or baking, or in the business of a butcher or seller of meat.

Special boards may be appointed for any process, trade, or business usually or frequently carried on in a factory or workroom, provided a resolution has been passed by either House declaring it is expedient to appoint such a board.

Special boards may consist of not less than four or more than ten members and a chairman, and hold office for two years. Half the members (elected as prescribed) shall be representatives of employers and half of employees. If the employers' or employees' representatives are not elected, the Governor in Council may appoint representatives. He also fills all vacancies. The members of a board may elect a chairman (not being one of such members); if they do not elect a chairman, the Governor in Council may appoint one.

In the case of the furniture trade, the board is appointed by the Governor in Council without election. *Note.*—This was provided to prevent the Chinese in the trade electing the board.

Regulations fixing the rates of payment to members of special boards provide £1 for a full day for the chairman, and 10s. for other members, and half rates for half days. A travelling allowance of 10s. per day is paid to members residing more than 40 miles from Melbourne. Railway fares are also repaid.

A board may fix either wages rates or piecework rates, or both; must also fix the hours for which the rate of wage is fixed, and the rate of pay for overtime; and in fixing wages may take into consideration the nature, kind, and class of the work, and the mode and manner in which the work is to be done, the age and sex of the workers, and any matter which may be prescribed by regulation.

A board may fix the proportion of apprentices or improvers to be employed in any process, trade, or business, and the wages to be paid to them; and in fixing such wages may consider age, sex, and experience.

The Determination of a special board applies to every city and town, and may be extended by the Governor in Council to any borough or shire or part of a shire.

A board may determine that manufacturers may be allowed to fix piecework rates based on the minimum wage. That is to say, the board, after fixing time wages itself, may leave it to the employers to pay a fair equivalent to their pieceworkers. The Chief Inspector may, however, challenge any rate so paid, and the employer may have to justify it before the Board.

The Chief Inspector may grant a license to any aged

or infirm worker to work at less than the minimum wage fixed by a board.

The Governor in Council may suspend a Determination for six months, and the board must then receive and examine evidence as to such Determination, and may amend it.

The validity of a Determination can only be questioned before the Supreme Court.

Employees must not be paid any part of a wage (fixed by a special board) in goods.

An employee may sue for his wages (if fixed by a special board), any agreement to the contrary notwithstanding.

Any person employed in a factory must be paid at least 2s. 6d. per week. No premium or bonus can directly or indirectly be charged for engaging or employing any female apprentice or improver in making articles of clothing or wearing apparel.

Every factory must be kept in a cleanly state, and be provided with proper ventilation and sufficient air space. (Great powers are given to the Department to enable it to enforce these provisions.)

No child under 13 may work in a factory. No person under 16 years of age, and no woman or girl, can be employed for more than 48 hours in a factory or workroom, provided that on not more than ten days in a year, and on not more than one day in any week, overtime to the extent of three hours may be worked, subject to payment for overtime at *pro rata* and 6d. tea money. Notice of having worked the overtime must be given to the Chief Inspector, and the reasons for working must also be stated. The Minister may also grant overtime not exceeding two months to any manufacturer if satisfied that the

exigencies of trade require that overtime shall be worked.

The suspension is granted subject to the following conditions, amongst others :—

> That 6d. tea money is paid each evening overtime is worked.
> That employees are not compelled to work without their consent.
> That no employee receiving less than 8s. per week is worked more than 48 hours, and that overtime at the rate of time and a half is paid.

Chinese and European furniture manufacturers must not work before 7.30 a.m., or after 5 p.m., or after 2 p.m. on Saturdays. All other factories in which Chinese are employed are subject to the same regulation. All furniture manufactured in Victoria must be stamped with the maker's name and address in such a way as to indicate whether it was made by Europeans or Chinese.

Boys and girls under 16 years of age must have medical certificates in certain classes of factories, and no boy under 14 or girl under 16 can work in a factory after 6 p.m., or before 6 a.m.

Persons in charge of steam engines and boilers must hold certificates from a State board of examiners. Dangerous machinery must be securely protected, but in case of disagreement as to the safeguards necessary, owners can appeal to arbitration. Government may order an inquiry by an expert into the cause of any accident.

Important as many of these changes will at once seem to the student of factory laws, none of them vie in interest with the remarkable experiment of appointing boards to fix wages. In 1896 the aim of the legislature was merely to improve the condition of six

hopelessly sweated trades. Only in 1900 did an amending Act give power to regulate other industries. The first batch of these boards, therefore, was six in number. They were constituted and went to work early in 1897. Five of the six were elected, and the sixth nominated by the Governor in Council. Each consisted of ten members, five for the employers and five for the workpeople, and of a chairman, presumably impartial. The six trades to be regulated were—

Elected Boards:
- Baking.
- Men's and Boys' Clothing.
- Bootmaking.
- Shirtmaking.
- Underclothing.

Nominated Board: Furniture.

The function of these boards was to fix the wages paid to time-workers, and, if possible, the rates for piecework; also to regulate the proportionate number of apprentices and improvers. This duty they all endeavoured to discharge, with, as might be expected, unequal success, especially in their earlier efforts. The baking board, for instance, met with little trouble. They had the good fortune to secure as chairman a judge, Sir Hartley Williams. As no piecework was done by the bakers, they were saved from a common cause of complication. By raising the pay of men to a shilling an hour, and fixing the apprentices' minimum at five shillings a week, they gave, it was reckoned, an immediate increase of 25 per cent to the adults in their trade. Country bakeries were not affected by their "determination." Nevertheless the average weekly wage paid to men and boys in the trade throughout the colony was raised from £1 : 12 : 5 for the year

1896 to £2 : 1 : 6 for 1898, and to £2 : 2 : 6 for 1901. In other words, the average gain for every worker was 10s. 2d. a week, though the gain to the men was, of course, more, and to the boys less, than the average. As the law also limited the working hours to forty-eight weekly, the fortunate bakers got much more pay for much less work. Yet very little friction seems to have been caused by the change, which in practice was neither ruinous to employers nor inconvenient to the public.

With the clothing trade board matters did not run quite so smoothly. So minute and elaborate was its "determination" that it took nine months to draw it up, and its details filled thirty-five pages of closely-printed foolscap. The minimum wage for men was fixed at 7s. 6d. a day; that of women at 3s. 4d. a day, or £1 a week. To earn this a work-woman had to be skilled, *i.e.* must have served five years at her trade. An exhaustive schedule of piece-rates was also issued. They were fixed so as to be a little higher than the time-rates, in order that the home-workers might have something to meet the cost of sending work to and from the factory, firing, and other small charges. This benevolent effort to help the outworkers was promptly checkmated by the employers, who, finding they could get work done cheaper by the time-workers in the factories, ceased to give it out. The more fortunate of the piece-workers were taken on as factory hands at the new and improved wage. Most of the others lost their work altogether. Moreover, while the board had been digesting its determination, the employers had had nine months in which to accumulate heavy stocks made at the old low rates of pay. This they had done without remorse or ruth, and a corresponding time of slack-

ness followed the proclamation of the new rates, the blame of which was, of course, laid on the increased scale of wages. The board, too, had limited the number of apprentices and improvers; the proportion was not to exceed one apprentice to every three tailoresses, and the children were to be paid. They were to get half-a-crown in their first year, rising annually to fifteen shillings in their fifth year. A sharp reduction in the number employed was the not unnatural result. The employers complained that they were not allowed to have enough of them to fill vacancies amongst adults. In 1899 it was, however, shown that the masters were not employing as many as the Act permitted. Of course, their main objection was to the new scale of pay. However, in 1900 the board met them by making the proportion of apprentices one to two instead of one to three, and gradually the disturbance settled down. More pieceworkers entered the factories, and the hard case of a few old and needy folks who were not worth the legal wage was met by allowing them to work for less than the minimum rate. The number of hands in the trade, which fell in 1898, more than regained the lost ground in the next year. In the year 1901 there was not much grumbling. The average rate of remuneration had increased in the case of men and boys from £1 : 15 : 3 a week to £2 : 0 : 5. Amongst the women and girls it had gone up from 15s. 5d. to 18s. 3d. It is claimed that the result of fixing a proper scale of pay, rising year by year, for apprentices and improvers is that employers are now forced, in their own interest, to see that learners do learn and that improvers do improve. Above and beyond this the Chief Inspector of Factories could assert, "I venture to affirm that there is now no sweating in the clothing trade in the State of

Victoria. . . . In the short space of three years the whole circumstances of the trade have been changed. No complaints are now made of gross sweating or of clothes made in miserable homes for a more miserable wage. . . . The majority of the manufacturers now agree that the operation of the determination has been good for the fair employer as well as for the employees." Sir F. Sargood, at any rate, who is not unqualified to speak for the masters, stated in the Federal Parliament (9th August 1901) that, speaking as one having large manufacturing interests in both colonies, he did not hesitate to say that the Factories Act had, as a whole, done undoubted good both in Victoria and New Zealand. He was bound to say that it had to a large extent put an end to the abominable system of sweating.

Like the clothing board, the bootmaking board made a bad start. It had, too, a troublesome trade to deal with. Boot-manufacturing in Victoria had been overdone by small employers. Then had come the importation of new machinery capable of supplying a far larger market than the Australian. The whole of 1896 was spent by the board in trying to fix a determination which should not be bitterly objected to either by masters or men. Its first proposal was so strongly protested against by the masters that it was withdrawn. A lowered minimum met the same fate at the hands of the men. A compromise pleased neither side, and left the piece-rate so much higher than the time-wage that the story already told in the case of the clothing determination may stand for the effect of that in bootmaking. To make matters worse came a rise in the price of leather which hit the manufacturers rather hard. However, the average increase in wages to hands of all ages employed in the trade was, in 1901, 5s. 3d. a head.

The gain to adults was, therefore, a good deal more. Oddly enough, the number of young girls apprenticed was growing greater. The cost of boots and shoes to the public had not risen. In 1901, however, it appeared that in four years the number of hands in the trade had not risen either. It had fallen slightly—from 4590 to 4304. The official explanation laid stress on the high price of leather, and the use of labour-saving machinery. The Chief Inspector admitted in 1900 that some employers might be evading the board's minimum. The Royal Commissioner from New South Wales, who visited Melbourne in 1901 to inquire into the working of the wages boards, had no doubt that evasion went on. In his report he wrote :

> Under a promise of secrecy I was able to obtain from one of the persons employed in one of these factories full particulars as to what is going on. An inside worker, although he works the full time, is paid for a less number of hours, while an outside worker is paid for a less number of pairs than he actually makes. Two books are kept, one for the benefit of the Inspector, which the employee signs, and in which the entries are false, the other for the information of master and men only. When such a system is established it is almost impossible for the Inspector to discover what is going on. The safety of the employer lies in the fact that his hands are those who cannot earn the minimum wage, and can only obtain employment in what may be called an illicit factory, and if they disclose the truth they become marked men, and lose all chance of any employment. Figures and all particulars were given me, but I do not set them out, as I do not wish to give any clue as to who my informant is. I gather that there are at least 250 hands employed in this way.

The shirtmaking board went to work with caution, and did not arrive at a determination until January 1898. Nor did it, even then, attempt any bold measure in dealing with its badly-sweated trade. It was con-

tent to stipulate for a minimum of 4d. an hour for the women in the factories,—there were scarcely any men working in the trade. As forty-eight hours was the legal week, this only amounted to a wage of 16s. weekly. Piecework rates corresponded. This modest pay was securing in 1901 an average gain of 3d. a week all round, and therefore of more than that to the grown-up workers. No disturbance followed the determination—naturally.

The first underclothing board met even greater difficulties at the outset than did the bootmaking board. It failed altogether to fix prices, and resigned. A second board, appointed in 1898, made headway, though slowly; and at last, in the middle of 1899, a determination came into force. The trade, which included the making of such articles as pillow-slips, aprons, and pinafores, had been in a wretched condition, and was looked upon amongst needlewomen as little better than a refuge for the destitute. As late as 1898 the average weekly earnings were 11s. 3d., and there were workers who had been five or six years in the trade, and were fairly quick with the needle, who were making but 2d. an hour. The board fixed the time-wage at the same figure as in shirtmaking, namely, 4d. an hour. This in the factories, where forty-eight hours were the legal week, meant 16s. for the six days' work. It was found almost impossible to fix satisfactory piecework rates owing to the variety of the work and the continual change of designs and patterns. Two apprentices were allowed to each skilled worker or improver, and though the full number were not taken on, there was an ample supply in 1901. The weekly average of pay all round was only 12s. 5d. Still, this was a rise of fourteenpence, and one or two of

the work-woman's smaller troubles, such as having to pay for her cotton, had also been remedied.

The furniture-making board's first determination was gazetted in April 1897, and was revised in October 1898. In the second edition the pay of men was fixed at 1s. an hour, and that of women at 5d. an hour. The former could thus earn 8s. and the latter 3s. 4d. in a legal factory day. This was a gain of 6s. 9d. a week all round, but of this only 1s. 2d. went to women and girls. In the "European" factories—*i.e.* where the work-people were whites—no great difficulty was found in getting the new rates paid. With the Chinese it was otherwise. The masters amongst them at once put most of their men secretly on piecework, and employers and employed laid their heads together to outwit the inspectors. The former, with the most courteous air in the world, would tender pay-sheets which purported to show that their men were getting nearly 7s. a day all round. The men smilingly acquiesced, and, when inquisitive inspectors pressed them with specific questions about secret piece-rates, they professed ignorance of any such arrangements, asseverating that they were paid by time and were getting full wages. To protect work-people who are being driven into breaking factory laws against their will is not easy. To protect them when they connive at their own oppression is notoriously difficult. When they are Asiatics, speaking an unknown tongue, or knowing but a smattering of English, and ready to forget that whenever convenient, they become the despair of the most patient inspector. In this way collusion between masters and men did its best to baffle detection of work done after legal hours. When the inspectors, guided by the sound of tools, entered some Chinese workroom

where cabinet-making was going on after hours, they would be met with protestations of innocence from all inmates. Only by many prosecutions was some respect for the law tardily obtained. Still, annoying and baffling as the lying obstinacy of the Chinese was, by the year 1901 the state of the furniture trade was a cheerful contrast to its demoralised condition in 1893. The white workers were no longer sweated, and bitterly as their employers complained of Chinese evasion of the law, business was brisk and they were able to live and carry on.

The Chief Inspector of Factories, writing in May 1902, denied that the tendency of the minimum wage was to become the maximum also. He asserted that, whereas in the clothing trade in 1901 the minimum wage for adult males was 45s. a week, the average paid was 53s. 6d.; for adult females, while the minimum was 20s., the average was 22s. 3d. He instanced similar differences in the boot, furniture, and shirtmaking trades.

Sidney and Beatrice Webb, who visited Melbourne in 1898, wrote thus in 1902 of the wages boards in the preface to *Industrial Democracy*:—

> We could not ascertain that there had been, up to 1898, any diminution of employment in the trades concerned; on the contrary, the numbers at work had certainly increased. We could find no evidence that prices had risen, and we were informed by employers that they had not done so. Nor were the employers themselves dissatisfied with the result. The explanation of the paradox lies, as we satisfied ourselves, in the very significant fact that, when the employers found themselves compelled to pay a standard wage to all whom they employed, they took care to make the labour as productive as possible: they chose their workers more carefully, kept them fully employed, introduced new processes and machinery, and in every way made the industry more efficient. The effect of stopping competition of wages is, as Mundella from practical

experience pointed out over thirty years ago (see p. 723), to concentrate it upon efficiency.

What the Victoria law does is, in effect, to compel employers and workmen to formulate, by common consent, minimum conditions for their own trade, which can be altered when and as required, but which are for the time being enforced by law. No employer is compelled to continue his business or to engage any workman; but if he chooses to do so, he must, as a minimum, comply with these conditions in exactly the same way as he does with regard to the sanitary provisions of the Factory Acts. No workman is compelled to enter into employment or forbidden to strike for better terms, but he is prevented from engaging himself for less than the minimum wage, exactly as he is prevented from accepting less than the minimum sanitation. The law, in fact, puts every trade in which a wage board is established in the position of the best organised industries in this country, where every firm and every workman finds the conditions of employment effectively regulated (as regards a minimum) by a collective agreement—with the added advantages that in Victoria the enforcement of the Common Rules becomes the business of the professional factory inspector; that no individual can break away from the agreement; and that no strikes, picketing, or other disorderly proceedings are ever needed to maintain its operation. This seems to us a distinct advance on the anarchic private war to which the settlement of the conditions of employment is otherwise abandoned.

We do not suggest that the Victorian law is by any means perfect. It is reported, no doubt correctly, that it is evaded and disobeyed in particular cases, as is also the law against theft and murder, but this we do not count as a serious objection to it or any other law. The Chief Inspector's licenses to work under price are liable to abuse, but honestly worked as the system now is, we do not regard this exceptional treatment of workers actually incapable of "a fair day's work" as any drawback. It is anomalous that the wage boards should not be able to frame Common Rules as to the maximum working hours and the many conditions of employment other than wages. More serious is the attempt to limit the number of apprentices, which, in spite of the action of Lord James in the English boot and shoe manufacture (pp. 482-489), we think wholly inexpedient and prejudicial. We doubt, moreover, whether it will be found possible, in the long run, to

work a system of separate boards for the innumerable separate and often badly-defined trades. Finally, we object to the retention, as the basis of the whole law, of the old conception that the amount of the wage in each trade is a matter for each trade to settle exclusively for itself, without regard to the interests of the community. In our view, the real justification for the interference of the law is the injury to the community as a whole that results from any form of industrial parasitism—from the payment, for instance, of wages insufficient for the full maintenance, under healthy conditions, of the workers and their families.

At the end of 1899 the boards and the system of a minimum wage had had three years' trial. They had had to stumble along amid many traps and pit-falls, to deal with a multitude of complicated and puzzling little problems, some of which they had not solved, and they had made more than one mistake. Yet, broadly speaking, they had certainly not failed. In their efforts to reorganise six sweated trades, they had succeeded in four and partially succeeded in the other two. Their blunder in forgetting, at the outset, to make special provision for the old and slow workers in the clothing and underclothing trades,—a blunder which they might have avoided had they watched the methods of the New Zealand Arbitration Court,—had been partly repaired by issuing licenses to old and infirm workers to permit them to work at less than the legal minimum. The number of these permits given up to the end of 1900 was sixty, and though these cannot have met all cases of hardship, they count for something. Though to some extent outmanœuvred by the Chinese in the furniture trade, the boards had improved even that unfortunate industry. Except, perhaps, in the bootmaking trade, they had done very little of which the decent majority of masters could fairly complain. On the contrary, they helped the fair employer

against the undercutter and the sweater. Prices to the consumer had not been appreciably raised by their reforms; the public therefore had nothing to grumble at. Making full allowance for errors and evasion, humanity was the better for what had been done. Real work had been accomplished in a righteous cause, and Victoria had abundant reason to give the great experiment a wider scope and a further trial under amended conditions.

This, accordingly, the Victorian Parliament did. In October 1899, Mr. Peacock introduced a Bill to extend the duration and expand the powers of the law of 1896. After some delay, caused by a change of ministry, and a sharp tussle between the two Houses, the Bill became a statute, substantially in the form its friends wished. The Upper House limited its life to two years *plus* a session of Parliament.[1]

Under the amending Act as assented to, the butchers' and pastrycooks' trades were added to the six trades already subject to the regulation of wages boards. Far more important than this specific extension is the clause under which the Governor in Council is now authorised, on receiving a resolution passed by either House of Parliament, to appoint a special board to fix the minimum of pay and the maximum of hours for any other industry. Some thirty-two special boards have been appointed under this section, and more have been asked for. The trades are these :—

[1] At the moment of writing (Sept. 1902) the Factories Act is said to be in abeyance owing to the sudden dissolution of the Victorian Parliament in mid-session before the passing of a continuing Act.

Aerated Water Manufacturers	Confectioners	Plate-glass Workers
Artificial Manure Manufacturers	Coopers	Potters
Bedstead Makers	Engravers	Printers
Brass-workers	Fellmongers	Saddlers
Brewers	Ironmoulders	Stonecutters
Brickmakers	Jam Makers	Tanners
Broom Makers	Jewellers	Tinsmiths
Brush-workers	Leather-workers	Wood-workers
Butchers	Malsters	Woollen Mills
Carriage Builders	Oven Makers	Wicker-workers
Cigar Makers	Pastrycooks	

Some of the determinations of these new boards led in 1901 to the wrathful protest referred to at the outset of this chapter. If we judge by the history of the original six boards we need not be surprised. We may also hope that with experience the newer boards, like the older, may repair mistakes and make for good.

No one familiar with the working of the Industrial Conciliation and Arbitration Act of New Zealand can help comparing the extended Victorian law with that. Both regulate the conditions of labour, though in different degrees. What is most interesting about the comparison is that, different in form as the two laws are, and designed as they seemed to be when first passed to attain different objects, they are, nevertheless, being in certain respects assimilated under the pressure of practical experience. This is the more noteworthy because they were drafted quite independently, and have, so far, worked on in separation. The New Zealand law was the earlier, but the Victorians borrowed nothing from it; nor in amending and expanding their own statute have the New Zealanders taken anything from Australia. In feeling their way along different lines through a difficult thicket, two sets of explorers are unconsciously converging towards the same end—general regulation.

The following official table shows the wages ruling in 1900 in the six Victorian trades which had been placed under regulation by the law of 1896 :—

SPECIAL BOARD TRADES

Return for the year 1900, showing the Average Weekly Wages paid for 48 hours' work in the six Victorian Trades for which Special Boards were first appointed, compiled from information supplied by Manufacturers. In a few instances Returns were not received.

Class of Trade.	Males.												Total Males.
	Apprentices and Improvers.									Minimum Wage Workers.		Pieceworkers.	
	13 years.	14 years.	15 years.	16 years.	17 years.	18 years.	19 years.	20 years.	21 years or over.				
Boot	16	69	96	112	92	80	94	78	94	58	1,564	275	2,628
	5/0	5/9	6/8	9/0	12/1	15/7	19/11	23/7	24/6	37/6	44/9	29/2	34/5
Bread	..	2	5	17	18	34	29	16	66	..	435	..	622
	..	9/6	9/8	12/0	10/8	17/9	19/7	25/11	41/7	..	51/11	..	44/0
Clothing	..	6	15	32	30	19	26	27	40	37	455	215	902
	..	3/6	6/5	7/5	10/2	19/4	14/7	19/7	24/9	32/5	53/6	45/1	42/4
Furniture (European)	3	8	24	34	28	24	26	13	62	..	511	4	737
	5/10	6/2	6/3	8/0	12/5	15/2	19/2	21/3	32/5	..	50/1	45/6	40/5
Furniture (Chinese)	..	1	..	3	1	1	1	6	24	..	234	..	271
	..	12/6	..	13/4	5/0	5/0	30/0	20/10	28/0	..	48/7	..	45/2
Shirt	1	..	..	4	2	1	..	..	..	..	22	2	32
	5/0	..	..	8/0	7/6	12/0	..	..	..	..	43/4	55/0	35/3
Underclothing	..	1	..	2	..	..	1	..	..	..	13	..	17
	..	5/0	..	5/0	..	..	20/0	..	..	..	40/3	..	32/3

Class of Trade.	Females.											Total Females.	Total number in Trade under Special Board, and Average Weekly Wage.	Total Number in Trade in Boroughs not under Special Board, and Average Weekly Wage.	Total Employees in Trade, and Average Weekly Wage.
	Apprentices and Improvers.									Minimum Wage Workers.	Pieceworkers.				
	13 years.	14 years.	15 years.	16 years.	17 years.	18 years.	19 years.	20 years.	21 years or over.						
Boot	14	63	122	148	136	99	70	20	32	588	12	1,304	3,932	..	3,932
	4/10	5/7	5/10	7/8	9/2	9/11	11/5	11/6	13/8	21/11	16/10	14/7	27/11	..	27/11
Bread	..	..	..	..	..	..	..	..	..	..	..	..	622	46	668
	..	..	..	..	..	..	..	..	..	..	..	..	44/0	32/3	43/2
Clothing	5	41	100	164	186	185	159	81	82	1,701	1,231	3,935	4,837	131	4,968
	2/10	2/11	3/8	4/11	6/6	9/7	10/8	13/2	13/4	22/0	20/10	18/1	22/8	18/10	22/6
Furniture (European)	..	..	1	2	2	1	2	1	6	32	..	47	784	4	788
	..	..	7/6	7/0	10/0	10/0	12/3	15/0	12/1	21/9	..	18/3	39/0	26/3	39/0
Furniture (Chinese)	..	..	..	..	..	..	..	..	..	..	..	..	271	..	271
	..	..	..	..	..	..	..	..	..	..	..	..	45/2	..	45/2
Shirt	16	21	31	28	21	9	1	2	4	103	461	697	729	..	729
	3/8	3/11	4/6	6/6	9/7	8/3	8/0	8/3	14/0	20/0	15/11	14/8	15/6	..	15/6
Underclothing	4	40	69	99	87	87	38	29	122	278	295	1,148	1,165	..	1,165
	3/11	3/11	4/3	5/5	7/9	9/5	10/8	10/9	11/8	19/3	14/11	12/7	12/10	..	12/10

The first line of each class gives the number of employees. The second gives the average weekly wage.

Until the end of the year 1900 the colony of South Australia, radical and progressive as it was in other directions, lagged behind in the regulation of factories and shops. Nothing worth speaking of was done until 1894, and then not very much. Children under thirteen were in that year forbidden to work in factories in Adelaide and its suburbs, and forty-eight hours fixed as the weekly stint of women and boys under sixteen. Overtime, however, might be worked on a hundred days in the year; it took six work-people to make a factory; and the clauses inserted to safeguard the health and lives of factory hands were crude and insufficient. Five years' experience, the example of other colonies, and in particular the revelations of the Adelaide factory inspectors, awakened the South Australian conscience to good purpose. The Factories Amendment Act of December 1900 not only adopted the Victorian wages board system almost in the words of Mr. Peacock's Act, but contained a definition of "factory" which went far beyond the Victorian. Henceforth in Adelaide the word factory includes any workroom where any one is working in the owner's employ; and though this would still seem to ignore small coteries of outworkers, it is a great advance on the older law. Moreover, the lowest wage to be paid to any one working in a factory was made four shillings a week—eighteenpence more than the minimum for the factory-children in Victoria. Full records of terms and particulars relating both to in- and out-workers were to be kept. When fixing legal minimum rates any wages board was expressly authorised to allow a special rate in the case of any one who through age or physical infirmity could not get employment at the board's general rate. This humane direction ought to enable wages boards in South Australia to steer clear

of the unluckiest of the early mistakes made by the Melbourne boards.

Industrial Arbitration [1]

(a) *The Case for Compulsion*

So costly and harassing are the conflicts of capital and labour, so much more attention is drawn to them than to the sufferings of the inarticulate poor, that most

[1] Authorities.—Of debates in colonial parliaments those best worth reading are to be found in the N.S. Wales *Hansard* in the years 1900 and 1901. Mr. Wise's chief speeches on his Bill were reprinted in pamphlet form, and are the most important speeches yet delivered on the side of compulsion. Note also his articles in *Review of Reviews* (Aust.), December 1901, and *National Review*, August 1902. The New Zealand debates, 1891-95, are now out of date. Half the arguments now appear wrong and the other half trite, as experience has shown that a compulsory Arbitration law is possible and not immediately ruinous. Later discussions in the General Assembly in Wellington on amending Bills are worth consulting, and especially the speeches of the Hon. John Rigg, M.L.C., for the law in 1898 and 1900. The first paper in N.S. Wales on the subject is the "Report of the New South Wales Royal Commission on Strikes and Arbitration," 1891. The most important is the Report of the Royal Commission on the working of Compulsory Arbitration Laws (Judge Backhouse), which visited New Zealand in 1901. There are also reports of committees of the General Assembly of New Zealand, 1900-1901, which are valuable on account of the evidence reprinted. The Awards and Recommendations of the New Zealand tribunals have been reprinted in two volumes, Wellington, 1901-1902. A number of them are also to be found in the annual reports of the Department of Labour there. For South Australia see "Report of the State Board of Conciliation," P.P., August 1895; for the present West Australian Act, W.A. *Hansard*, 17th September 1901, *et seq.* The ablest attack on the New Zealand experiment is found in a pamphlet published in Dunedin in 1901, and entitled *Compulsory Arbitration: is it a Success?* by John Macgregor. Dr. Cullen, the most prominent assailant of Mr. Wise's Act, has written an article against it in *United Australia*, November 1901. For the *pros* and *cons* of compulsion from the English standpoint see correspondence in the London *Times*, January, February, March 1899. See also *A Country without Strikes*, by H. Demarest Lloyd, New York, 1900; *Newest England*, by H. Demarest Lloyd, chap. x.; Métin, *Le Socialisme sans Doctrines*, chap. vi.; "Quelques Expériences de la Conciliation par l'Etat en Australasie," by Anton Bertram, *Revue d'Economie Politique*, 1897; A. Siegfried's *Nouvelle Zélande*, vi. and vii.; Preface to *Industrial Democracy*, by Sidney and Beatrice Webb, 1902; Tract 83, London Fabian Society, 1898; *The Truth about the New Zealand Arbitration Act* (pamph.), London, Liberty Review Co. The colonial parliamentary debates in 1890 and 1891 teem with discussions of the Maritime and other strikes. Pugh's *Almanac* for 1891 and 1893, Brisbane, contains short accounts of the Shearers' Strikes; Bertram, *Labour Party in Queensland*, comments on them.

of us, when we speak of labour troubles, mean disputes between masters and men. Labour is, of course, heir to many other ills than those brought about by industrial warfare, the struggles of which are, indeed, rather the result than the cause of labour troubles. Assuredly I do not write the following chapters to suggest that the mere prevention of strikes and lock-outs is a general cure. Nothing is further from my purpose. If strikes are to be put down, then side by side with suppression must go some system for dealing with the grievances, the misunderstandings, the restlessness which have hitherto caused them. And even the completest and most successful adjustment of the differences of employer and employed does not take away the occupation of the industrial reformer. Effectual State arbitration is a valuable remedy; but to advertise it as a panacea would be foolish, though its scope may be made much wider than some critics suggest. These write of it as though its sole function must be to deal with militant, highly-organised bodies of combatants. Far from being confined to these, much of its best and most humane work may be done in improving the conditions of sweated workers, too poor and too weak to give battle in the ordinary fashion of industrial warfare. It is the best hope of the woman-worker, for whom trade unionism and voluntary conciliation have done so little. In a speech made at Coventry, and reported on 2nd March 1901, Mr. Asquith drew a picture of the industrial world as divided into two great camps, each of which was carefully organised against the other, each of which preserved for the most part an armed neutrality, but from each of which came occasionally an outburst into war. Up to a certain point his description is true; but

from the *Times* of the same morning I take the following extract:—

WOMEN LABOUR AND THEIR WAGES

A somewhat remarkable case was heard at —— yesterday, when the —— Company were summoned for employing seven women and two girls after hours on 1st February. Factory-inspector Kellett, with an assistant inspector, visited the company's premises at —— at 8 o'clock, and the women, who ought to have finished at 6, were still working, and near unfenced machinery and with a bad light. The inspector asked for a heavy penalty. He understood that some girls worked until 11 at night and 2 in the morning. Complaints had been made, but not by employees. Mr. ——, the manager, pleaded ignorance of the rules. He said that they paid the women 1s. 2d. a day, the standard wage. Mr. Mitchell (a magistrate): Do you mean to say that you only pay less than 1¼d. an hour to these women? The witness: Yes. The witness, answering other questions, said that the women started work at 6.30 a.m., and on this occasion would have worked until 9 o'clock. A fine of £1, including costs, was imposed in each case, making £9 in all.

Women who earn less than 1¼d. an hour represent a kind of labour which is neither armed nor sheltered in any camp. Factory Acts and trade unionism have so far failed to give them all the help they need. Something is wanted more elastic and searching than the one, and less costly and warlike than the other.

A history of strikes yet remains to be written, and I cannot get trustworthy data as to the proportion that successful or partially successful strikes bear to defeats. But in England the Board of Trade returns estimate that in the two excited years of 1889-90, the proportion in which the workpeople gained their ends, in whole or part, was about two to one.[1] Even then

[1] These are the latest figures published by the Board of Trade on this aspect of British labour conflicts:—

they had to pay a heavy price for partial success. My own conviction is that in the greater conflicts the workmen's defeats outnumber their victories. For instance, out of the six largest mining strikes in England, the men have been losers in five. Moreover, contrary to common belief, they lose more in the struggle than the masters. True, newspapers are eloquent on the losses to trade and capital caused by even a short cessation of industry. But most employers are skilful enough tacticians to choose their time for accepting as well as giving battle. The arrest of business by a lock-out, or even a strike, often affords an opportunity to clear off heavy accumulated stocks, to save the expense of a costly staff during a dull season, or to force up prices which have fallen in a glutted market. On the other hand, many labour victories are not complete enough to reimburse the men the cash lost through a long spell of inaction. That the indirect or ultimate results of a success are profitable not only to the men concerned, but to their whole class, is of course admitted. Yet be it confessed that the cost of strikes, however exaggerated by mercantile pamphleteers, is frightful—their waste deplorable.

However heavy a discount we allow off the figures usually quoted as the loss occasioned by the greater strikes, they remain serious enough. The American

Year.	Percentage Number of Work-people *directly* affected by Disputes.			
	Settled in favour of Work-people.	Settled in favour of Employers.	Settled by Compromise.	Indefinite, or not settled at end of year.
1896	43·5	28·0	28·3	0·2
1897	24·2	40·7	34·0	1·1
1898	22·6	60·1	17·2	0·1
1899	26·7	43·7	29·1	0·5
1900	30·1	24·8	41·7	3·4
1901	27·1	32·6	36·2	4·1

Commissioner of Labour, after recording 1491 conflicts previous to 1881, reckons that in the United States, from 1880 to 1900, there were 22,793 strikes, involving 117,509 establishments. The men's losses in the twenty years' fighting have been estimated at the enormous figure of fifty-five millions sterling; the masters' at more than twenty-four millions and a half. The trade levies alone were set down at three and a quarter millions sterling. The proportion of strikes in which strikers succeeded in wholly or partly gaining their point was about two-thirds of the whole. It has been estimated that the enforced idleness brought about by labour conflicts in Great Britain causes the country a yearly loss equal to the output of 40,000 men in regular work. Nor is this a new feature. As far back as 1829, the Manchester spinners struck and lost a quarter of a million in wages; in the following year the Ashton and Stanley Bridge spinners forfeited as much. In a lock-out on the Clyde, the unions disbursed £150,000 in strike pay, and lost £312,000 in wages. Another Manchester strike is put down as costing the men £80,000, and the employers nearly four times as much. The Preston strike in 1854 deprived 17,000 workers of £420,000 of wages. The South Wales miners' strike in 1873 cost three-quarters of a million in wages alone, and the coal strike in the same part of Great Britain in 1898 kept 100,000 colliers idle for five months. The great mining dispute settled by Lord Rosebery not only held 300,000 good men idle for many weeks; it not only cost England a sum estimated in millions. During weeks of conflict it kept three-quarters of a million of dependent women and children in a state of anxiety and intermittent suffering. It threw out of work, more or less com-

pletely, half a million of persons engaged in trades directly affected by the coal strike. It caused eighteen unfortunates to be experimented upon by the new magazine rifles of the British army, and two of them to lose their lives. Finally, it led to an arrangement which might and ought to have come about without any such civil war. The cotton strike of 1893 in south-east Lancashire lasted for twenty weeks; it threw 50,000 people out of employment. Sixteen thousand spindles stood idle, and 35 per cent of the producing capacity of the United Kingdom in the trade affected was kept unfruitful. Yet the wage reduction in dispute was no more than 5 per cent, and that eventually agreed upon was between 2½ and 3 per cent. The lamentable Penrhyn conflict has now continued for two years. After the engineers' conflict in 1897, the *Daily News* published these figures to show the loss to both sides:—

Wages of men	£3,255,000
Union pay, levies, loans, subscriptions .	925,000
Savings expended	500,000
Loss of trade to employers . . .	5,696,000
	£10,376,000

This was but an estimate, and was too high. But the balance-sheet of the Amalgamated Society of Engineers afterwards showed that the Society had spent £658,000, chiefly its own money, in the six months' fruitless struggle. The glass-workers' strike at Charleroi in Belgium dragged on like a Boer war for ten months, and, when the men capitulated in May 1901, was supposed to have cost them over £400,000 in wages. When we think of all that is meant by these figures,—how the savings of thrift vanish away, how homes are lost, families are broken up, the ties of a lifetime are

snapped, women have to hunger and children to face the cold half-clothed,—we must indeed confess that the price paid for a labour victory is often high. What is to be said when this price is paid not for victory, but for defeat; when, after all these sacrifices, workmen see their union shaken; their leaders, it may be, in prison; their places taken by the hated "blacklegs"; their homes stripped of furniture; and their families eating the bread of charity; themselves driven out to wander and beg for the work they renounced? All these, too, make up only one side of the account. On the other are the employers' losses—losses not only of money but of markets. As already said, both the direct and indirect cost of labour conflicts are commonly grossly exaggerated in the heat of strife. It is pointed out with reason that far too little account is taken of the speed by which losses are made up by zeal and overtime after work has been resumed. Ask, however, the men who know most about industrial war—ask the experienced employer and the old trade union official—and they will tell you when their blood is cool that the waste and mischief brought about by big conflicts are not easy to overestimate. Men of their stamp are not those who go to war with a light heart.

But the evils incident to strikes are a thrice-told tale. Thanks to the loathing and fear with which these acute crises in the everlasting conflict between capital and labour are viewed by the wealthy, the professional, and the literary classes in a community, their dark side has been only too well displayed. Nothing ever lost less blackness in the process of exposure. And truly we must admit that any system that brings suffering and loss upon women, children, and non-combatants is at best faulty and cruel. Even

this is not the worst feature of industrial warfare. If the endurance of these hardships and miseries always led to justice, the price paid, though heavy, might be submitted to. But all this may be gone through and yet the party in the right may lose, as in the great Scotch railway strike. A strike or lock-out only proves which side is the stronger, not which is in the right. And this applies not merely to the industrial warfare which actually takes place, but to the sulky submission brought about by the dread of it. Employers have yielded to unfair demands simply through fear of the loss entailed by stopping their works. Quite as often unions have not dared to press home fair requests through their inability to face a lock-out or the summary dismissal of their leaders. Still oftener is this true of unorganised work-people. The inability of the weaker but wronged side to appeal to force is seen most frequently in the case of factory women. I have known the grievances of needlewomen in a colonial town to be glaring enough to excite newspaper discussion and public sympathy. So eager were the women to go to arbitration that they chose as arbitrators the employers' association of the district. Yet neither public sympathy, newspaper advocacy, nor even the readiness of the employers' association to act could bring a few stubborn masters concerned to accept arbitration. So for years the grievances remained for the most part without remedy. The women could not strike. Only when a compulsory Arbitration Act had been passed and could be appealed to did they get redress.

Labour disputes, usually classified into strikes and lock-outs, sometimes partake of the nature of both, and fortunately, as a rule, do not at once lead to either. Yet if not settled peacefully and on a tolerable basis,

their cumulative effect leads to war—except in helplessly sweated industries. This has to be borne in mind in appreciating the results claimed for the action of voluntary boards of conciliation and arbitration in the manufacturing districts of England. For instance, the Durham Joint Committee set up in the coal-mining trade arranged as many as 390 labour disputes in the year 1881; 493 in the year 1882; and 562 and 629 in the two following years respectively. In the Northumberland coal trade thousands of matters in dispute have been arranged by joint committees. In the annual report of the English Board of Trade on strikes and lock-outs in 1899, it is mentioned that 53 permanent conciliation boards considered 1232 cases in the year, and managed to settle 675 of them. The report frankly admits, however, that very few of these cases involved a stoppage of work, and pleads that "the main work of agencies for conciliation and arbitration is the settlement not of strikes or lock-outs, but of questions which might otherwise lead to them."

In the sixties, seventies, and earlier eighties, writers and speakers on the labour problem had high hopes of voluntary conciliation and arbitration. Though these hopes have not been fulfilled, they were genuine and not unreasonable. The voluntary but systematic arrangement of labour disputes by means of joint committees and other private conciliation machinery was the ideal of a certain school of individualist thought then very much in vogue. It seemed a species of evolution, the natural outcome of collective bargaining; it promised to contribute to the survival of the fittest; it saved money and kept people at work; above all, it was supposed not to interfere with private freedom, and was clear of the taint of that thrice detested thing State inter-

ference. What more could the friends of humanity ask for? And, indeed, it may be admitted that, as an ideal, universal voluntary arrangement plus arbitration could not well be improved upon, if only labour and capital would accept it. Truly it was a pleasant vision. Some real progress was made towards making it a reality. The boards with which the names of Sir Rupert Kettle and Mr. Mundella are honourably associated did excellent work. So did others. It did not at one time seem rash to predict that their example would be effective, that their number would rapidly multiply, and England and Scotland be overspread with a network of business-like bodies of masters and men settling their differences by the light of experience, common-sense, and self-restraint.

If this bright dream seemed to some a little Utopian, it might at least have fairly been expected that the employers and workmen who had in the Midlands and the North made successful trial of this or that form of voluntary arrangement would not abandon it. No one could be blamed for anticipating that machinery which had worked for years usefully and amid general approval would stand the test of time, and might slowly but steadily win converts and imitators. Yet even this moderate calculation has been too often disappointed. Not only have conciliation boards failed to multiply and possess the earth, but various well-known and widely quoted specimens of them have ceased to exist. For even long-continued success is no guarantee that private trade boards may not be overthrown or ignored in some sudden gust of temper or excitement. It is true that with them as with commercial enterprises their greatest difficulties and dangers gather round their cradles. Thus the attempt to form

a central board for the British tailoring trade broke down at the first award. Equally unfruitful was a well-meant endeavour made in the manufactured steel trade in the west of Scotland. The Macclesfield silk trade board lasted only four years. Such stumbles on the threshold might be looked for. But it is significant to recall the break-up of Mr. Mundella's model board established for the Notts lace and hosiery trade, and dissolved after twenty years of service. Nor is Sir Rupert Kettle's elaborate scheme now resorted to in the Wolverhampton building trade, popular as it was for many years. Seventeen years of usefulness did not save the South Wales miners' joint committee. Nor did a twenty-five years' life prevent the conciliation board for the Staffordshire pottery trade coming to an end in 1892. Like it, the Leicestershire hosiery board met the same fate after a long career. The New South Wales Commission on Strikes cited as valuable and pertinent a Newcastle arbitration agreement representing "the matured experience of the colliery proprietors and of a compact body of 5000 coal-miners," yet the history of the coal mines of Great Britain, America, and Australia during the ten years that have passed since the passage was written is scarcely a good advertisement of the results of leaving the coal-mining industry to the free-will and good pleasure of confronting organisations. Very few new trade conciliation boards have been set up since 1889. The chambers of commerce in London, Bristol, and other cities have indeed established general conciliation boards. But, except in the metropolis, they would seem to have done nothing, and in the metropolis but little. A few similar efforts in the colonies have had the like result.

Take up a magazine article or pamphlet by some

sanguine disciple of Sir Rupert Kettle or Mr. Mundella; read that in seventeen years the board of arbitration for the manufactured iron trade settled 800 disputes; that the London Chamber of Commerce has drawn up a series of admirable conciliation rules; or that the powerful trade union of the boilermakers in thirteen years never spent more in a year on labour disputes than 9 per cent of an annual income of £120,000! You are stirred to hope that the industrial millennium is above horizon. Yet turn to hard, matter-of-fact records, and note that the number of labour conflicts in the thirteen years, 1889-1901, has been 10,792. Clearly "the growth of industrial peace," so cheerfully, almost jauntily, chronicled by enthusiastic believers in voluntary arrangement, is about as slow as the conversion of the Jews to Christianity. Voluntary arrangement has been earnestly urged and patiently tried for many years in England. What is the outcome? Eleven thousand conflicts in thirteen years. In the United States —not to speak of France, Italy, and Spain—the picture is darker. There mercenaries shoot down strikers, unpopular managers are assassinated, the militia has to be called out and has to fire on rioters, cavalry charge crowds, and unionists are put on their trial charged with poisoning "blacklegs."

I turn now from private conciliation to intervention by the State. The day is gone by for academic arguments against this. The right of the State to intervene in labour disputes was stated so pithily and clearly by the Commission on Strikes set up in New South Wales in 1890, that I need not try to vary the language of its report:—

> No quarrel should be allowed to fester if either party were willing to accept a settlement by the State tribunal. . . . In-

dustrial quarrels cannot continue without the risk of their growing to dangerous dimensions, and the State has a right in the public interest to call upon all who are protected by the laws to conform to any provision the law may establish for settling quarrels dangerous to the public peace.

Pity that the Commission did not advise, and the New South Wales Parliament thereupon enact, a law effectual to give force to this excellent declaration of principle. Of course there are those who do not accept it, and who cling to the maxim once uttered by a respectable English Whig statesman, that the sole duty of the State when labour battles are in progress is "to keep the ring." Yet the wisdom of a householder who might allow his family or servants to settle a domestic dispute by smashing the furniture, while he philosophically locked the front door and kept strangers from the doorstep, would not impress any one.

When, after 1889, the Dockers' year, the fighting spirit of trade unions flared up high enough to be viewed far and wide, the portent led to a series of experimental laws. Decent people felt that something—they did not quite know what—ought to be done. Strikes and lock-outs not only seemed to happen every day, but had much more attention paid them than formerly. Timid minds were alarmed, busy men interfered with, humane souls grieved, and even indifferent persons annoyed. Then, middle-class opinion was not now, as in earlier generations, prepared to put all the trouble down to the meddlesome wickedness of "trade union agitators; paid loafers; fellows who never did a day's work in their lives, sir!" Politicians, like everyone else, agreed that something must be done. What? They caught at conciliation: it was a comfortable word. So in a dozen countries the years following the Dockers'

Strike saw Bill after Bill introduced and Act after Act passed, most of them very much alike, nearly all destined to fail completely and be promptly forgotten. Two or three have been of some limited use. Only one has effected what those who enacted it professed to want. No doubt some of these measures failed because, in sporting parlance, they were not "meant." They were the merest crudities, hastily botched up to satisfy a passing demand, and forgotten as soon as the demand had died away. For the rest, all but one of the more serious attempts failed, wholly or almost wholly for the same reason—they shrank from compulsion. It was so easy to provide machinery for disputants who might like to use it, so hard to insist upon their using it if one of them did not like. There were so many precedents for the former—for the latter almost none. Orthodox economists and philanthropic writers on labour questions were without exception against compulsion, and with them were ranged the business man and the suspicious or victorious trade unionist. What wonder, therefore, if politicians—who are not specialists—were guided by the specialists and the manifest drift of expert opinion.

It is always hard to lead and easy to follow, easier still to look on. So, too, it is difficult to make laws in advance of public demand, and more difficult still to enforce them. Compulsory enactments in the face of very strong public feeling are rightly impossible in a democracy. But where a public opinion is ripe and determined to substitute equitable arrangement for industrial war, then optional conciliation laws are worse than none at all. They are the merest put-off. They soothe the public conscience; they lull a healthy discontent; they tinker with a great business; and they

leave a national evil very much where they found it. In France and Massachusetts such laws have scored just enough casual and minor successes to give legislators who do not want to go further an excuse for standing still.

But praiseworthy as are the efforts of a painstaking board of official arbitrators, such as that in Massachusetts, established by statute, State-paid, and therefore endowed with a public status, even such a body will usually fail when success is most needed, unless clothed with real power. If, too, the failure of the State optional system in Massachusetts has only been partial, in more than a dozen other States of the Union it has been pitiable, for in them so little use has been made of conciliation laws that only the specialist knows that they have any. The English Conciliation Act, with which Mr. Ritchie's name is usually coupled, has proved useless either to prevent or to compose the more serious labour conflicts: when put to anything like a severe test it has simply failed. When, in the course of the Engineering conflict in 1897, an approach was made to the employers under its terms, they scouted it. Sir Henry Howorth wrote of the approach as an "impertinence," and the *Times* bluntly informed the friends of conciliation that the business of the State department concerned must be confined to offering to be of use when both sides to an industrial war have had enough and are ready to be conciliated because they are tired of fighting. The law of 1896 is not the first failure of the kind in England. It had three predecessors, all still-born.

In France, under the law of December 1892, either party to a labour dispute may invoke the good offices of a *juge de paix*, either before or after stopping work. The justice must then invite each of the disputants to

nominate half of a committee of reconciliation, of which he himself is chairman. The commune which is the scene of the dispute must supply the committee with a room and with fire and lighting. Other reasonable expenses are paid by the department. Moreover, when a conflict has broken out, the justice may of his own motion request the parties thereto to make use of the law. This measure has been not infrequently used, chiefly on the initiative of workpeople, and has not wholly failed. In eight years the committees settled 285 disputes directly, and it is claimed that the settlement of 128 others was indirectly due to the law. The number of strikes alone in France in the same eight years, 1893-1900, was 4272: comment seems needless. In Germany industrial courts, which may arbitrate when both parties to a dispute appeal to them, appear to deal successfully with about 4 per cent of labour conflicts.[1]

Industrial war has its uses. Strikes and the fear of strikes have gained for labour a multitude of just concessions. It is not tame acquiescence in hard conditions that is wanted, but another remedy. The battles of masters and men will go on, and perhaps should go on, until some better way of regulating

[1] There are those who suggest as a compromise that State tribunals should be armed with the power of summoning before them parties to disputes, and of hearing cases with or without the disputants' consent. There the tribunals' powers are to end; their awards are to have no legal force. I confess I have no faith whatever in the efficacy of such a system. I believe that the more obstinate of the disputants would scout such a court's recommendations. It is suggested that public opinion would exert itself powerfully in support of the tribunal. I do not think it would—except on some rare occasion. By the general public a labour quarrel is merely damned as a nuisance. Public opinion is a great force. But public sympathy, and even public attention, are very hard to get in labour conflicts—the Dockers' Strike notwithstanding. I believe that if an arbitration law gave a powerful employer the option of disregarding a court's recommendation and he did so, a large section of the public would only say that he was within his rights.

the conditions of industry can be found. Is there no better way? that is the question. Private boards and optional statutes have failed to find one. The bright hopes they once excited are dead and buried. And so it has come that experimental law-makers, in certain colonies, forced to see that voluntary arbitration by systematic private arrangement has had little success in England and none elsewhere, have turned to the State. Driven to admit that State voluntary laws, while scoring minor successes in France and Massachusetts, have been still-born in England, in a dozen American States, in Victoria, and in New South Wales, they have fallen back on compulsion.

(*b*) *The Act of* 1894

The Industrial Conciliation and Arbitration Act of New Zealand, commonly called the Compulsory Arbitration Act, is a law by which labour disputes are, in certain events, referred to State tribunals. The decision of these may have the force of law, and be binding on all engaged in the trade in which the dispute has arisen. This novel enactment was placed on the statute-book in 1894, and has been in constant use since. Before it was enacted attempts had been made in Australia to deal with industrial conflicts by optional laws. None of these had been at all successful. A compulsory law passed in South Australia in 1894 also failed ignominiously. A word or two on the failures, to precede a study of the first success, should therefore be of interest. Moreover, the New Zealand law has lately been copied, more or less closely, in New South Wales and Western Australia. The New South Wales Arbitration law, at least, calls for a description, for if it

succeeds it must eclipse the New Zealand Act in importance to students. Again, to introduce any account of these experiments in compulsion, it is necessary to say something of the strife amid which they were framed, the aims of those who had charge of them, and the special local reasons which induced certain politicians to venture upon departures novel, unorthodox, and troublesome. These reasons were chiefly found in the —to colonists—unexampled series of strikes in the years from 1890 to 1894. There were strikes of sailors, wharf labourers, shearers, station-hands, bootmakers, silver-miners, coal-miners, tramway-men, gas-workers, and others. Far the most important in their effect on public opinion were the Maritime Strike of 1890, the Shearers' Strikes in Queensland and New South Wales, and the conflicts at the silver mines of Broken Hill.

The shrewd, uncompromising strategy of the employers, and the courage and loyalty with which the unionists stood by one another in an unwise and hopeless contest, made the Maritime Strike a very interesting conflict. The issue at stake, too, meant much to both sides, and as much to the public. Nominally the battle began over the dismissal of one Morgan, a stoker, from the steamship *Corinna* for being a union delegate—a trumpery quarrel which might, nay, would have been arranged had it stood by itself. The real cause of the strike was the resolve of the colonial steamship companies not to tolerate the affiliation of a union of steamship officers with the Trade and Labour Council of Melbourne and the Federated Seamen's Union. This step had affronted them, and, before it was taken, the growing aggressiveness of unionism had irritated them in common with other employers. In August 1890 they were ready for battle. The maritime unions gave

them an opportunity and they took it. The seamen, holding that the right of workers of all grades to ally themselves was a cardinal principle of unionism, called out their forces. The trade and labour councils supported them, and the wharf labourers in a score of ports struck in sympathy. The conflict spread across the Tasman Sea, involving New Zealand, more than a thousand miles away. The circumstances of this extension were lamentable. The steam coasting-trade of the colony and the trade between its ports and Australia were, as they still are, chiefly in the hands of one corporation, the Union Company. The seamen in its employ were an unusually fine body, and year in and year out were as well treated, perhaps, as any men afloat. Neither they nor their own union officials really wished to fight, yet fight they did very bitterly. How did so uncalled-for an encounter come about? Sir Robert Stout, now Chief Justice of New Zealand, tersely told the story at the time, and I will quote his words, showing how, across the sea at Sydney, the quarrel broke out which was to set New Zealand alight.

The Maritime Council of New Zealand consists of branches of the Australian union. It was the earnest desire of the Maritime Council to avoid a strike here. The first trouble arose over the *Waihora*, when the Sydney wharf labourers declined to work this vessel as she was one of the Shipowners' Association's steamers. The Union Company appealed to the Maritime Council, and it promptly offered that the seamen should work the vessel, and this was done. Two other steamers belonging to the Company arrived in Sydney, and again the wharf labourers declined to work. Without waiting for the interference of the Maritime Council, the agent of the Union Company employed non-union labourers. Now it was known that were this done a strike would ensue, and a general strike followed. The Union Company, therefore, with its eyes open, practically invited a strike. How far it was coerced into

such an act by the Shipowners' Association, the correspondence and cablegrams between the company and the Australian shipowners would, if published, show. I have given a plain recital of the facts.

Thus, with both sides in the struggle in Australia eager to involve the New Zealanders, the latter, yielding to pressure, sympathy, and the infection of excitement, were drawn into a useless and mischievous conflict. The public in their colony were furious at the entanglement, and rightly so. Where the public erred was in laying the whole blame upon the Maritime Council.

The New Zealand blunder was but one of a series of sympathetic strikes. On the other hand, at the Broken Hill silver-mines and the Newcastle coal-pits the tables were turned on the men, and work was stopped by what were really sympathetic lock-outs. For the first time colonial-born men and women saw a succession of violent interruptions of industry on a large scale and over a wide area—an industrial war made for an idea. To these onlookers it seemed a strange and intolerable thing that, over a quarrel originating in New South Wales, ships should be laid up in New Zealand and South Australia; that farmers and merchants in half-a-dozen colonies should be unable to get their goods to market; and that this turmoil should be caused by the forward policy of bodies of workmen who were comfortable, and in some cases highly paid. The result was certainly a dire inconvenience; anger waxed hotter, and the flame was vigorously fanned by most of the newspapers. "Free" labourers volunteered in numbers. In response to the cry for helpers to keep the ports open, clerks and young men of good social standing went down to the wharves, took off their coats, and laboured

in loading and unloading the boycotted steamers, amid the more or less good-humoured jeers of the crowds of strikers who stood about and made game of the efforts of these amateur lumpers and stevedores. In Canterbury, New Zealand, the Commissioners in charge of the State railways determined that their lines should not lose business, ordered fifty of their men to go down to the wharves at Lyttelton and help to unload cargo destined to be carried on the railroads. When the men — unionists themselves — refused to leave their regular work and thus fight their brother unionists, the Commissioners instantly dismissed them. The union to which they belonged, the Amalgamated Railway Society, protested publicly and angrily, and found noisy sympathisers. Thereupon the Commissioners summoned four of its chief office-bearers before them, and gave them ten minutes to choose between leaving their society and quitting the public service. Refusing to submit, they were forthwith dismissed. It was evidence of the public temper of the moment that their society did not dare to attempt to revenge them, but—on the advice of certain leading politicians friendly to unionism —passed over the incident in silence.

In one or two towns, notably Sydney, there was some attempt to block streets and an occasional resort to fisticuffs; as a rule, order was fairly well kept and with very little trouble. Hardly any man holding any good social or public position cared or dared to justify the strike, or even assert the equity of settling the conflict by arbitration. Almost alone among the few was George Higinbotham. The author of the famous phrase "The wealthy Lower Orders" had long since ceased to be a politician and was now Chief Justice of Victoria. He pointedly subscribed £50 to the strikers'

funds.[1] In New Zealand Sir Robert Stout, then a leading advocate and at the time out of politics, was not afraid to remind the angry public that there were two sides to the question. More than once, and notably in the letter to the *Otago Daily Times* of the 20th September 1890, from which I have just quoted, he stated the case for the unionists better than they ever stated it for themselves. Very soon it became clear that the seamen would not win, and that they were willing to confer with the employers on terms of settlement, or to submit to arbitration. But the blood of the winners was up, and they would hear of nothing but unconditional surrender. They saw their way to deal a crushing blow to unionism and they meant to deal it. This jarred on not a few onlookers. Mr. James Service, then in the front rank of Victorian politicians and very far from an extreme Radical, said emphatically that while he thought the unions wrong and the employers right on the merits of the conflict, yet he thought the matter should be settled by friendly conference, and admitted that it was the men and not the masters who were holding out the olive branch. When, in New Zealand, in pursuance of a resolution of the House of Representatives, the Government invited capital and labour to a conference, the maritime employers only sent a representative to refuse flatly to concede any-

[1] The letter which was sent with Higinbotham's subscription is short enough to quote :—

LAW COURTS.

The Chief Justice presents his compliments to the President of the Trades Hall Council, and requests that he will be so good as to place the amount of the enclosed cheque of £50 to the credit of the strike fund. While the United Trades are awaiting compliance with their reasonable request for a conference with the employers, the Chief Justice will continue for the present to forward a weekly contribution of £10 to the same object.

Morris, in his *Memoir* of George Higinbotham, says that the weekly £10 was paid until the strike closed—that is to say, for fifteen weeks.

thing. Just before this, on the 20th September 1890, an employers' conference in Sydney had declined to meet labour at all. Their declaration grated upon many moderate-minded men. It ran :—"Willingness to go into conference implies readiness to make concessions. If they were to meet the labour delegates with a full determination to yield nothing, their action would be misleading and cause further disappointment." There must, I think, be colonial masters who do not much care to remember that a fortnight afterwards, on 8th October, the Melbourne employers bluntly stated that they would not allow "hollow sentimental notions to influence them to a conference against their better judgment." Strongly as public opinion ran against unionism then and for two years afterwards, it was this attitude which gave the advocates of State arbitration their first chance.

The Shearers' Strike, which began in Queensland in January 1891, lasted five months, involved from 8000 to 10,000 men, and was full of features distinctively Australian. The issue between the rival federations of employers and employed—the Pastoralists' Association and the Shearers' Union—was that of individual bargaining. The squatters, whose association, founded in 1884, had become a strong and widespread league, were resolved to assert their right to engage non-union men, and when the unionists invited them to a conference in January, they answered that they would only accept if the right of "free contract" were recognised ; and by this they meant individual bargaining. A general strike followed. The unionists, instead of riding in parties from station to station to undertake the shearing of the flocks at each place, formed themselves into camps, where they discussed grievances and endeavoured

to arrange to carry on the campaign. One of these camps, that near Clermont, held 1000 men. When non-union shearers were brought into the colony from New South Wales and Victoria, bodies of unionists beset the imported men, endeavouring to persuade them to desert by appeals, jeers, and threats. The spectacle became common of convoys of these free labourers travelling across country, escorted by armed police, militia, and special constables, whilst bands of mounted strikers hovered near, like guerilla squadrons, watching for some opportunity to get at the "blacklegs." The disturbed country was dotted with detachments of armed constables. In spite of these, much intimidation and molestation went on; and there were one or two attempts to wreck trains, much burning of valuable pasture by fires lit in dry grass, and no less than nine alleged cases of arson, ranging from the burning of a large wool-shed to that of a wool waggon. The Labour Federation appealed to the Prime Minister to secure them an unrestricted conference with the sheep-owners, and got in reply from Sir Thomas M'Ilwraith an unsatisfying answer, which virtually ranged the Government on the side of "free contract." In March some members of the Pastoralists' executive were mobbed at Clermont, pelted with showers of stones, and only rescued by the police after a sharp tussle. A fortnight afterwards the unionist leaders were arrested on a charge of conspiracy, their office searched, and the papers found there seized. A heavy batch of trials was held in April, followed by sentences of from seven years' imprisonment downwards. No right-minded onlooker could waste regrets on the men who had broken the law, struck at society, and injured their own cause by arson and violence, and who only got their deserts

therefor; but it was difficult to follow the trial of the unionist leaders for conspiracy with the same conviction that nothing but the most obvious justice was done. The jury was locked up all night, and, before bringing in a verdict, twice reported that it could not agree. When it did agree on "guilty," it recommended the accused to mercy, and was snubbed by the judge for doing so.

The strike collapsed in June. It had cost the Government alone £100,000; yet the shearers, though utterly beaten, had toughness enough to fight again two years afterwards, when the sheep-owners reduced the shearing rate, and met with dilatory answers the men's request for a conference. The strike of 1893, though it extended to New South Wales, was a counsel of despair, and the unionists, albeit they doggedly struggled on for three months, and had the sense this time not to congregate in large and ill-disciplined camps, never had the least chance. They were divided amongst themselves from the start. There were again half-a-dozen notable cases of fire-raising. In one, a wool-shed attacked by night by a party of armed incendiaries was defended vigorously, and some forty rifle shots were fired. In another case, a threatened wool-shed had been left under the charge of a police constable. Him the incendiaries caught asleep. They blindfolded their captive, and, dragging him out, tied him to a tree. Then they set fire to the shed and rode away. When such deeds were done it is perhaps not to be wondered at that the Government provided its magistrates and police officers with a set of instructions to be followed in case of dangerous rioting. The police, though not to fire except in the last necessity, were then to fire in earnest:—

Whenever the necessity of firing shall unfortunately arise, it ought to be at the leaders of a riot or the assailants of the police, and, if possible, with effect. Firing over the heads of mobs or crowds engaged in an illegal pursuit must not be allowed, as a harmless fire, instead of intimidating, will give confidence to the daring and the guilty, while comparatively innocent persons in the rear might thereby be injured.

The last line probably denoted nothing worse than a deficient sense of humour; but to the labour party it seemed to smack of cynical brutality, and the "Fire low and lay 'em out!" mandate is still of bitter memory in Queensland. It was a needless blunder, for the police never had to put it into practice.

A bad shooting case, for which the chief offender was sent to gaol for six years, and a drastic and effectual Disarmament or Peace Preservation Act, understood to have been modelled on Irish examples, were other features of the second and last Shearers' Strike. Like the first, it was a melancholy conflict, unwisely begun, badly carried on, and ending miserably. The disorder and outrage which marked both struggles are all the more lamentable because they are not fairly characteristic of Australian labour disputes. Whatever colonial shearers may have been in early days, most of them nowadays are men of whom any country might well be proud. Sober, active, handy, given both to read and to think, they are the backbone of the bush people, a ready-witted, loose-limbed, hard-riding race, who have little in common with the loutish agricultural labourer of Europe. They and the union to which they cling must in ordinary times command the sympathy of all except those to whom trade unionism in any form is a thing to be distrusted and fought. Law and order, however, in a British colony are not mere empty phrases, but principles

sternly adhered to by the quiet majority—principles rigorously enforced if need be, and for the breach of which any set or class must pay by a long loss of public confidence and sympathy.

By the time the second Shearers' Strike came to an end in 1893, unionists everywhere had begun to ask for a law which should make it impossible for conference and arbitration to be refused. Their demand had been stronger after the Broken Hill mining strike in 1892. Broken Hill is a silver-mining town in the desert, in the borderland of New South Wales and South Australia. The mining companies there put pressure on the men to adopt piecework; the men, who had a strong union, refused. Work was stopped and 5000 men were idle for five weeks. It was reckoned that they lost £200,000 in wages, and that the temporary loss to the employers was half a million. The conflict cost the South Australian State railway department, whose lines furnished the town's chief outlet, £150,000, and put the New South Wales Government to no slight expense. The men were beaten; some 2000 had to go back on the companies' terms, and the rest lost their places. Eight of the leaders were tried for conspiring to commit riot, sedition, and conspiracy to obstruct persons in their lawful work. Six were found guilty, but only of obstruction. Four of these were sentenced to rather short terms of imprisonment, but two, Messrs. Sleath and Ferguson, were given two years each with hard labour—a punishment of which even humane Conservatives spoke as a shock to the public conscience. From the outset the mining companies claimed the right to work the mines as they pleased, and would not hear of arbitration.[1]

[1] At the outset they candidly made a statement of their position, two of the articles of which ran as follows:—"3. The mining companies cannot possibly

These encounters profoundly affected the public mind. The sympathy which at first had been widely felt for the attacked masters was now to some extent transferred to the defeated men, who had asked for arbitration and had had their request spurned. It was felt that the evils of the Old World had at last overtaken Australasia. The earlier, peaceful, and primitive life had passed away. New conditions had to be faced. How to deal with them? Trade unionists, sobered by defeat, cried out for State arbitration. In this they were supported by many not belonging to their ranks. It was felt that the settlement of labour disputes by the strike and the lock-out—in other words, by a tug of war—was antiquated and barbarous, and meant that the industry was to be controlled by force and cunning merely. The desire for something juster, fairer, and more peaceful than this was strong. Men turned to the Government and asked for a remedy, with something of that impatience of disorder which made the merchant and farmer of the Middle Ages seek in the King's authority a strong arm to put down the private warfare of feudalism. Except in Queensland, where Conservatism held its ground, parties of a more or less progressive nature came into power in the larger colonies during the three troubled years between the winter of 1890 and that of 1893. Upon the leading men of these parties devolved the task of finding some substitute for the unscientific and wasteful strife of the strike and the lock-out, with their uncertain and often unjust results. These would-be reformers looked across the seas to the Old World and America, and scanned the experiments tried there. If I

consent to arbitrate as to the right of either side to give notice of termination of agreements. 4. The mining companies claim the right to work the mines as they deem best, and cannot refer this right to arbitration."

may speak as one of them, I may say that they found small comfort in the outlook. What they saw has been sketched in the previous chapter. Summed up it came to this:—

1. In both Europe and America strikes and lock-outs were growing in numbers, bitterness, and cost, while statesmen either shrugged their shoulders or looked for suggestions to barren economists and perplexed philanthropists.

2. Voluntary references to conciliation boards, or to arbitrators, under private arrangement between employers and workmen, were not to be trusted as a general remedy, though successful in a limited number of cases in certain highly organised trades in England.

3. State arbitration laws in Great Britain, Europe, and the United States had been often passed, but, except in minor disputes or towards the conclusion of exhausting struggles, had had very little success. For the most part they were a dead letter.

4. Strikes, trade unionism, and conciliation were alike powerless to cure the most intolerable evils of the wages system,—those found in the sweated trades.

Thus, by a process of exhaustion, those colonial politicians who meant business were driven to the conclusion that they must choose between ignominious failure and going a step further than experimentalists elsewhere.

In Queensland the Parliament did nothing more than pass an empty resolution in favour of State arbitration in labour conflicts. The Conservatives decided to rest on their victories over the shearers, carriers, and maritime unions, and let the thorny subject alone. In Victoria action was confined to passing a futile optional law in 1891. Thereafter the Victorians bent their efforts

upon removing some of the causes of labour conflicts by working for the passing of the remarkable factory and wages boards law, which they succeeded in enacting in 1896.

In New South Wales the cry for industrial peace was perhaps loudest. The colony had, and was to have, an especial load of labour troubles. The maritime strike was supposed to have cost it a million, including £150,000 of lost wages, and though the largest, it was not the last strike by seamen in the colony. The Shearers' Strike of 1893 spread into New South Wales, which at the same time had to deal with the mining battle at Broken Hill; while a whole series of conflicts between the Newcastle coal-miners and the coal companies marked the years from 1890 to 1898. In 1900 and 1901 came a crop of strikes amongst various factory-workers. Nowhere, except in Queensland, has so much bitterness and bad feeling been shown in Australian labour struggles as in New South Wales, and nowhere has the failure of optional laws to find a remedy for them been more complete. The search began as early as the end of 1890. The beaten trade unionists were then sickened of fighting, and the middle class, though winners, were alarmed at the cost of the strife and the temper and number of the unionists. The shrewder of them recognised that, though labour might be beaten in industrial pitched battles, yet in politics it was a great power, and that conflicts with capital tended to rouse and rally its forces. So a Royal Commission was set up to inquire into strikes and their cure. It examined fifty-five persons. Of the witnesses—many of them well-known colonists—questioned before it, the greater number favoured some sort of State conciliation machinery. Some opposed

even this, and a large majority condemned compulsion. Almost alone amongst them Mr. C. C. Kingston of Adelaide advocated it, and handed in a draft Bill embodying the principle of compulsory arbitration. Of those who took the opposite view the names of Mr. (now Sir Edmund) Barton and Sir Samuel Griffith are noteworthy. Sir Samuel went so far as to doubt the efficacy of State intervention in any form. The Commissioners' report is still worth reading, as an instructive document upon labour conflicts. It recommended that State conciliation boards, from which there should be an appeal to a State arbitration court, should be established; and this was done by an Act in 1892, thanks to the persuasive force of Mr. (now Sir Edmund) Barton, who stood sponsor for it. A gush of sentimental approval greeted the enactment, which was hailed as the first achievement of the new-born labour party in the Parliament at Sydney. Much was expected of it, and indeed it was an amiable and nicely-drafted measure, which, appealing as it did to pure reason and the good sense of disputants, had just the success always met with by conciliation laws dependent on the willingness of capital and labour to use them. The boards and court set up under it were not even armed with sufficient power to compel the attendance of witnesses, or the production of books, accounts, and papers. Employers treated them with contempt. The efforts of workmen to bring cases before them were baffled by the simple refusal of the other side to appear. Conflicts went on intermittently, and it became so evident that the Act was a not inexpensive piece of waste paper, that Parliament ended by refusing to vote money for it. Mr. Reid, then Prime Minister, tried to patch it up, but the Upper House in Sydney would have none of

a proposal to give the tribunals proper powers to obtain evidence, and flung it out with curt expressions of anger. In 1899 Parliament passed a copy of the English Conciliation Act of Mr. Ritchie, and as this proved useless, Mr. Bernhard Wise, in 1900, took in hand a compulsory Arbitration Act, and after a struggle with the Legislative Council passed his law in December 1901. What its provisions are I will show further on.

In South Australia, in the last month of 1894, an Act was passed which might reasonably have been expected to lead to definite results either good or bad. Its author, Charles Kingston, then Prime Minister in Adelaide, was the first colonial law-maker to look the issue squarely in the face. He was ready to clothe his arbitrators with full powers. The machinery of the Act was elaborate, and in most ways ingenious and excellent. But it has never had the good fortune to be made practical use of. Suffice it to say that the Kingston law provided for the special registration of trade unions, which by the process would become corporate bodies. Unlike the New Zealand law, it allowed only registered bodies to appear before the Arbitration Court. There were indeed conciliation boards whose interference could be invoked by non-registered unions, but these Boards were without compulsory power of any description. The result has been complete failure. The conciliation boards have done no work because the employers refuse to appear before them. The Arbitration Court has been useless because the trade unions of the colony do not care to register under the Act, and therefore have remained outside its jurisdiction. The chief instance of an attempt to use the machinery of the Act ended in the men concerned being dismissed by their angry employer,

who snapped his fingers at the law and its tribunals. The truth is, first, that this pioneer statute was so drafted that some of its component parts did not fit into one another; second, that there is no real desire in South Australia to use or submit to compulsory arbitration. There were no flaws in the Act but such as could have been easily amended had public opinion called for amendment.

We must therefore turn to New Zealand. An Arbitration Bill was drafted in 1891 and somewhat widely circulated. Its reception was the reverse of enthusiastic, and as the Government had its hands full at the time, it was postponed for a year. In 1892 it was pushed on in earnest. It provided a complete scheme for the adjustment of labour disputes between unions of workmen on the one side and employers or unions of employers on the other. Of disputes between individual men and their masters, or between employers and bodies of men not legally associated, it took no notice. This exclusion was grounded on the belief that such disputes are neither large enough nor stubborn enough to call for State interference; moreover, how could an award be enforced against nebulous clusters and mere shifting groups of units? The individual employer could therefore be the unit on the one side, but only a union could be a recognised unit on the other. The disputes to be dealt with comprised all matters relating to work done or to be done, or to the privileges, rights, or duties of employers or workmen in any industry.

To deal with labour conflicts the colony was to be divided into districts, into each of which a local board of conciliation might, if petitioned for, be set up, composed of equal numbers of masters and men, with an

impartial chairman. At the request of any party to an industrial dispute, the district board was to call the other parties before it and hear, examine, and award. As soon as a dispute stood referred to a board, anything in the nature of striking or locking-out was forbidden. Work was to go on as usual without withdrawals or dismissals for any cause connected with the dispute. The Act armed the boards with the fullest powers for taking evidence and compelling attendance. A board's award, however, was not to be enforceable by law, but was only to be a friendly recommendation to the disputants. In case these, or any of them, refused to accept it, any party might appeal to the Court of Arbitration, or the conciliators themselves, if hopeless of effecting a settlement, might themselves send a case thither. The Court was to be a tribunal consisting of a judge of the Supreme Court sitting as president, with two assessors, one selected by associations of employers, the other by federations of trade unions. The trio were to be appointed for three years, and, in default of bankruptcy, crime, or insanity, only both Houses of Parliament were to have power to remove any of them. The Court was not to be fettered by precedent. It was to settle its own procedure, and hear any sort of evidence that it chose to call for or listen to, whether strictly legal evidence or not. The hearing of cases was to be public or private as the Court might order. The Court's award could be given by a majority of its members, who were to decide in such manner as stood with equity and good conscience.

It was to rest with them to say whether the award was to have the force of law or was merely to be in the nature of good advice. If it was to have legal force, it was to be filed in the Supreme Court, and then would

have the weight of an ordinary submission to an award. That is to say, any party to it could, by leave of the judge, get an order exacting a penalty for breach of it. The penalty, be it noted, was not to exceed £500 in the case of any individual employer or trade union. Should a union's funds be insufficient, each member was to be liable to the extent of not more than £10. Costs were to be in the Arbitration Court's discretion. Under the Act as first passed the award might not have force for longer than two years. On the other hand, it was not to be appealed against or be quashed by any other tribunal, nor were proceedings in it to be removed to any other Court on any pretext whatever.

The right to elect the conciliation boards and the assessors of the Arbitration Court was to belong to such bodies of masters or workers (men or women) as might register under the Act. The number of persons needed to form one of these was (in 1895) fixed as low as five. When registered they were to be called industrial unions, and virtually became corporations with power to hold land, to sue and be sued, and to recover dues from their members. One of the first proceedings under the Act was a successful action by a trade union to recover fees from a defaulting member.

The Court and boards were not only to have jurisdiction over all employers and all unions of workers registered under the Arbitration Act, but over all trade unions though only registered under the trade union Act. Any master or any trade union could be brought into Court if he or it were a party to a labour dispute. It was, however, only the unions and associations which registered specially under the Arbitration Act which could vote in the election of the conciliation boards

and the assessors of the Arbitration Court. By not registering, trade unions simply lost the right of voting for these. If in any district a union of workers were to register, but no union of employers were to do so, or *vice versa*, the Governor in Council might nominate the conciliators required to make up a board.

It may simplify matters to say here that for some years after the passing of the Act, one or other of the Supreme Court judges did the work of presiding over the Arbitration Court in addition to his ordinary duty. In 1900 the Arbitration work had become so heavy that an extra judge of the Supreme Court was appointed on the understanding that his time was chiefly to be given to the Arbitration Court.

A noteworthy feature of the statute was a provision for the filing in the Supreme Courts of contracts embodying working conditions agreed upon by employers and unions. These documents, called Industrial Agreements, were to be, when filed, binding for the period mentioned in them, provided it did not exceed three years. Numbers of these agreements have been voluntarily entered into: it is also a practice of the Arbitration Court to order the parties to a dispute to execute an industrial agreement.[1]

Though drafted in 1891, the Bill did not pass into law until towards the end of 1894. Before the Upper House would let it go on to the statute-book, it had to be passed three times by the Lower House of Parliament. Twice the Upper Chamber "amended" it by striking out all the parts relating to compulsion and

[1] In the twelve months between June 1900 and June 1901 thirty-two Industrial Agreements were made and registered. Three of these were made by order of the Court. The others were spontaneous or concluded on the recommendation of Conciliation Boards. During the same twelve months the awards of the Arbitration Court numbered sixteen.

the Arbitration Court. During these conflicts the Bill had to run the gauntlet of a general election. This successfully endured, it was accepted, and, after much slow and troublesome setting-up of machinery and clearing away of small obstacles, it came into operation about the end of 1895. During the three years and a half in which its fate was in suspense, it neither roused the least enthusiasm nor attracted very much attention. There was plenty of political excitement in those years, but not about the Industrial Arbitration Bill. It did not awaken a tithe of the interest and energy expended over a Bill for closing shops on one half-holiday in each week. Only once in Parliament was a debate upon it listened to by half the House. At the outset the larger newspapers either violently condemned or threw cold water upon it. After a while, two or three came round to express guarded approval. A conference of employers from all parts of the colony, held in 1891, objected "absolutely" to the compulsory clauses and to other parts of the Bill. In a letter addressed to its framer the conference informed him that "the employed, quite as much as the employer, require to be protected against the theoretical measures of trade reformers and idealist *doctrinaires*, whose methods may be mischievous whilst their sincerity is not called in question." The proposal to apply arbitration to the State railways the conference viewed "with the greatest alarm." It "most strongly objected to the whole principle of compulsion"; finally dismissing the Bill as "an unwarrantable interference with the freedom of the subject, and most prejudicial to the progress of trade and manufactures."[1] After thus raking the measure fore and

[1] In June 1900, after this "most prejudicial" law had been at work nearly five years, the Canterbury Chamber of Commerce, one of the chief mercantile

aft, the employers, or most of them, were satisfied to remain contemptuously silent. A very few slowly came round to support the Bill. What newspapers call "the general public" was not interested in its fate. Only the trade union leaders studied its provisions, decided to support it, and did so without flinching. They neither conceived nor moulded it, but they accepted it, a sufficiently bold thing for trade unionism —even trade unionism in difficulties—to do. Apart from the ordinary sparring of debate, the line taken by the Opposition was to accept the conciliation boards and reject the Arbitration Court. Two or three of them, notably Sir William Russell, supported the whole measure. Its most energetic opponent said in debate quite sincerely that the Bill was a sham—"no man was insane enough to believe that it would become law." Most people thought that, though it might become law, very little would be heard of it afterwards.

Throughout, its framer refused all compromise. By studying the fate of other laws he had convinced himself that a half-measure would be worse than none. Either let the State take possession of the whole arena and make adjustment its own business, or let it relinquish the work to private conciliators; either do it thoroughly or let it alone! To the repeated question,

chambers in the colony, published these sentences in its forty-first annual report:—

Probably at no period in the history of New Zealand can we find such unmistakable signs of general prosperity as we have experienced during the past year. Our industries, almost without exception, have had their capacities taxed to the very utmost, skilled labour has been practically unobtainable, and, except in the case of one or two exceptional trades, there is every prospect for a continued demand for the productions of New Zealand labour. The number of workers employed in our factories in the year 1895 was 29,879. This number has steadily increased until, at 31st March 1900, the number employed reached 48,938, being an increase of 19,059, or nearly 64 per cent in five years. No stronger proof could be required of the forward march of our industrial army, and it is satisfactory to note that the industries that have benefited most by the wave of prosperity which we are now enjoying have been able to give to the workers higher wages and improved conditions of employment.

How could such a statute be worked and enforced? he answered—It could be worked by judicial common-sense, and enforced by moderate penalties and the respect always paid to the law of the land in a law-abiding community. How otherwise could a factory law be enforced? But, urged the objectors, what court could oblige an employer to carry on a business against his will? Answer—None; but a court could tell an employer that if he carried on his business it must be under certain conditions, and could keep him to them. Would not the workmen revolt in mobs at every unsatisfactory decision? The labour members confidently scouted such a notion. "Frankly, the Bill is but an experiment," said the framer, "but it is an experiment well worth the trying. Try it, and if it fail, repeal it!" Mildly interested, rather amused, very doubtful, Parliament allowed it to become law, and turned to more engrossing and less visionary matters.

(c) *Arbitration at Work*

Though the Arbitration Act was assented to by the Governor in August, 1894, it did not come into force until New Year's Day, 1895. The interval, and the first nine months of 1895, were taken up with preliminary work, with the framing and gazetting of regulations, with the passing of a short amending Act to cure a couple of technical defects discovered thus early, and with the registration of labour unions. After a little hesitation, most of the trade unions came in, and were registered as industrial unions, as were also a number of new bodies, formed for the purpose of making use of the law. Mr. Justice Williams of the Supreme Court was appointed president of the

Arbitration Court. It was not until the latter part of 1895 that any body of employers decided to register.[1] Then the Federation of Master Bootmakers, representing the more important boot factories of the centre and south of the colony, came in. Their trade had suffered from strikes and bad feeling in the past, and now a very troublesome and doubtful negotiation was pending between them and their federated workmen. The currency of a "statement" under which both sides were working was nearing its end. Acute differences of opinion existed about many of its details —such differences as are found in the boot trade everywhere. Before the delegates of masters and men met in conference to discuss the revision of the statement, some one inspired them with the happy thought of binding themselves to submit any points they might fail to settle to the adjustment of the Arbitration Act. An industrial agreement to that end was drawn up, signed by both sides, and duly filed in the nearest office of the Supreme Court. This happened at the end of 1895, and was the beginning of a series of cases under the Act, which now number more than two hundred. Since the law has been fairly at work no labour conflict of the slightest moment has been fought. Such strikes as have taken place have been trumpery affairs among unorganised labourers. The trades that have come under the awards of the tribunals have been those of the bootmakers, seamen, gold-miners, coal-miners, printers, tailors, millers, carpenters, plumbers, painters, moulders, drivers, saddlers, tailoresses, dressmakers, sawmillers, engineers, ironworkers, furniture-makers, bakers, confectioners, butchers, grocers' assistants, and others of

[1] In 1902 the number of bodies of employers registered under the Act was about seventy-five ; of work-people about two hundred and fifty.

less importance. The questions arbitrated upon have already included most of the hard nuts which students of labour conflicts know so well. Among them are hours of labour, holidays, the amount of day wages, the price to be paid for piecework, the proportion of apprentices, the facilities to be allowed to trade union officials for interviews with their men, the right of employers to engage non-unionists, or to discharge or refuse to engage unionists, the conduct of unionists in refusing to work side by side with "free labourers," and pressure exerted by employers upon workmen to induce them to join a private benefit society. I need not weary readers with a catalogue of the many minor and technical points which have come up for consideration. The decisions which have attracted most attention have, of course, been those which have dealt with the crux of the labour conflicts in Australia and New Zealand in the troubled years 1890-94: I mean the claim of unions on one side to a right of exclusive employment, met by the employers on the other by a demand for absolute freedom of contract.

So far, in nearly all the cases the men have been plaintiffs and the masters defendants; not in all, however, though critics have often said so. In an important case lately heard, the Federated Society of Master Bootmakers brought their operatives' union into court. In several instances men have put the Act in motion by friendly agreement with masters; in others masters have privately urged the men to do so in order to bring all the employers in a certain trade into line. The chief explanation of the activity of the trade unions is found in the revival of trade and business throughout the colony. This and the use of the Act happened to begin almost at the same time. The trade

union leaders have never concealed their belief that, had there been no Arbitration Act for them to use, New Zealand in these prosperous years would have been the scene of many determined strikes. Instead, however, of striking on a rising market, as the traditional custom of trade unionism has been, the New Zealand unions were able to arbitrate upon it. The same revival of prosperity explains how it came about that in most of the awards—in all the earlier cases—the men gained something, though usually less than they asked. Every now and then in the course of appeals to the Court they have gained nothing, and in several instances their grumblings have been loud as well as deep. As examples I will quote the cases of the Wellington printers, Thames gold-miners, and the engineers and fellmongers in Christchurch. So far, though, they have implicitly obeyed all awards, though by no means without complaining. In one case a printers' union was angry enough to take a vote upon a motion to cancel its registration under the Act—a step which would not have relieved it from the award, and which it had the sense to reject.

No outcome of the Arbitration law was as novel or unexpected as the giving of preference to unionists in certain trades so long as they can supply men qualified and ready to fill vacancies; none has been so much and so angrily attacked in New Zealand, or is less likely to be approved of by orthodox economists in Great Britain. Curiously enough this principle was laid down by the Arbitration Court at the very outset; the leading case on it was the award in the Federated Bootmakers' dispute decided in 1896; and the best statement of the practice, since so often followed, is there found set out in the judgment given by Mr. Justice Williams. Speaking as

president of the Court, he pointed out that for three years the boot-shops had in practice been filled solely with unionists, and, laying stress on this, indicated that in later cases the Court would give weight to what appeared to be the custom of each trade. It would reserve the right to decide each case strictly on its merits. This it has done, and though a preference has been granted to unionists in more than fifty cases, it has often been refused. When refusing it, where it has not been customary or does not seem equitable, the Court has been satisfied to order employers not to discriminate against unionists.

In this place I think it enough to point out that in New Zealand the community, mainly for the purpose of self-protection, has deprived trade unionists of the right of striking—of the sacred right of insurrection to which all workmen rightly or wrongly believe that they owe most of what lifts them above serfdom. The Arbitration Act, moreover, deliberately encourages workmen to organise. When, in obedience to the law, they renounce striking and register as industrial unions, it does not seem amiss that they should receive some special consideration. Their exertions and outlay in successfully conducting arbitration cases benefit non-unionists as well as themselves, though the non-unionists have done nothing to help them. Nor need the preference entail any hardship to their employers. Non-unionist labour is usually valued either because it is cheaper or because it is more peaceable. But under the Arbitration law non-unionists must get the same pay as unionists, and unionist strikes are abolished. It is only the non-unionists (in a trade where there is no award in force) who can strike, and who—though rarely and then only in petty groups—do. They are,

therefore, to that extent, the more dangerous servants of the two. Nor, be it noted, does an employer who has only non-union men in his factory stand clear of the Act. Nor, again, can he take himself out of it by discharging his union hands and pleading that he has none in his employ. If an award has been made dealing with the trade in his district, he is bound by it as much as his competitors who employ union labour.

Where it cannot be shown that the existence and aims of a union are a help to other workmen in its trade, as well as to its own members, and particularly where union men are but a fraction of those working at a trade, they are not given preference. This is clearly laid down by Mr. Justice Edwards in giving the award in the Christchurch engineers' case in 1898 :—

> The claim of the union to a preference of employment, in my opinion, necessarily fails when it is ascertained that the union is not really representative of the greater number of the workmen employed in the trade, and the claims of the union have not resulted in any practical benefit to the bulk of the workmen.

Again, the unions to whose members preference of employment is given, must not be close guilds, as are certain English trade societies. The Court sees to it that rules and entrance fees are reasonable and light; otherwise no preference will be granted. The president of the Court, in dealing with this point, said :

> Not the least important matter for consideration in each case must be whether or not the union is practically open to every person employed in the trade who desired to join.

A union which may not strike, and may not shut out any decent workman in its trade who wishes to join it, is a union left with little power for mischief, however

much it may do, legally and peaceably, for its members and their fellow-workmen by organising, probing grievances, negotiating, arbitrating, and watching the observance of awards. Where there is no trade union, the humblest group of workmen can form one of their own cheaply and easily. Any five workers can do that, and may register without cost. Though extracts from legal documents are neither light nor lucid reading, I quote one here in order to show in exact shape the practical working of the principle of preference. The quotation is from the award in the Wellington printers' case, filed in July 1900. It sets out, sufficiently plainly, both the advantage given to a union under the system and what is exacted in return :—

37. If and after the union shall so amend its rules so as to permit any person now employed in the trade in this industrial district, and any person who may hereafter reside in this industrial district, and who is a competent journeyman printer, compositor, or operator, to become a member of such union upon payment of an entrance-fee not exceeding 5s., and of subsequent contributions, whether payable weekly or not, not exceeding 6d. per week, upon a written application of the person so desiring to join the union, without ballot or election, and shall give notice in writing of such amendment, with a copy thereof to the employers, then and in such case, and thereafter, employers shall, when engaging a workman, employ members of the union in preference to non-members, provided that there are members of the union equally qualified with non-members to perform the particular work required to be done, and ready and willing to undertake it.

38. Until compliance by the union with the conditions of the last clause employers may employ any person, whether a member of the union or not, but no employer shall discriminate against members of the union ; and no employer shall in the employment or dismissal of any person, or in the conduct of his business, do anything for the purpose of injuring the union, whether directly or indirectly.

39. When members of the union and non-members are employed together, there shall be no distinction between members and non-

members, and both shall work together in harmony, and shall receive equal pay for equal work.

40. So soon as the union shall perform the conditions entitling the members of the union to preference under the foregoing clauses, and at all times thereafter, the union shall keep in some convenient place, within one mile from the chief post office in the city of Wellington, a book, to be called the "employment-book," wherein shall be entered the names and exact addresses of all members of the union for the time being out of employ, with a description of the branch of the trade in which such member claims to be proficient, and the names, addresses, and occupations of every employer by whom such member shall have been employed during the preceding one year. Immediately upon such member obtaining employment a note thereof shall be entered in such book. The executive of the union shall use their best endeavours to verify all the entries contained in such book, and the union shall be answerable as for a breach of this award in case any entry therein shall in any particular be wilfully false to the knowledge of the executive of the union, or in case the executive of the union shall not have used reasonable endeavours to verify the same. Such book shall be open to every employer, without fee or charge, at all hours between 8 a.m. and 5 p.m. on every working-day except Saturday, and on that day between the hours of 8 a.m. and noon. If the union fail to keep the employment-book in manner provided by this clause, then and in such case, and so long as such failure shall continue, any employer may, if he so thinks fit, employ any person or persons, whether a member of the union or not, to perform the work required to be performed, notwithstanding the foregoing provisions. Notice by advertisement in the *New Zealand Times* and *Evening Post* newspapers, published in the city of Wellington, shall be given by the union of the place where such employment-book is kept, and of any change in such place.

The president of the Wellington Industrial Association, a strong body of employers, has pointed out that the award of preference does not destroy a master's right to pick and choose amongst individual workmen, and, dealing with the employment-book clause, observes :

As unions where they get preference have now to be entirely thrown open, they must of necessity have all classes of workmen. But that does not imply that employers must either take on or keep on an unsatisfactory workman because he is a unionist whose union has preference, for the award expressly provides that a public record must be kept of where workmen previously worked, so that an employer may make himself satisfied as to the fitness of a workman before engaging him.

Of equal importance with the settlement of the vexed preference question was the decision—also come to almost at the outset—that a union of workmen had a right to bring into Court all the employers of a district engaged in their trade, whether these had union men working for them or not, and that the Court could make the owners of non-union shops observe the same conditions as others. Had this decision not been given, the temptation to employers to remain outside the Act by employing no unionist would have been extremely strong in some cases, especially to small employers in trades where the larger employers were obliged to use union labour. The decision saved the owners of union factories from being put in an intolerable plight, and subjected to what always might, and sometimes would, have been unfair and harassing competition. Henceforth the scope of the Act was seen to be much wider than had been generally expected. Disputes were less often to be issues between a single employer and his men than between all the labour and all the capital engaged in a trade in any district. A whole trade could thus be brought into Court. Moreover, it was possible for a portion of those concerned in it to initiate the process. At the same time it was, and is, open to the Court—as already pointed out—to base an award hostile to a workmen's union on the specific ground that they are

not a sufficiently large or representative body. This has been done, notably in the Christchurch engineers' case before referred to.

Other interesting awards dealt with slackness of work in dull times. It was arranged, for instance, that if work grew scanty in the coal mines of a certain district, the employers should endeavour to rearrange the work amongst their employees, reducing each man's share rather than dismissing any. Again, the same employers were requested to fill vacancies with local workmen, if competent and willing, instead of importing men from a distance. In all trades where a minimum wage was fixed for competent workmen, it was laid down that a lower rate might be arranged for any aged or less skilled man or woman.

Working women have invoked the aid of the Act to good purpose, though not nearly as often as men. Female type-setters have been declared entitled to be paid on the same scale as male printers; and women employed in the boot factories have shared in the benefits of the awards regulating their trade. Of all female factory hands the tailoresses probably owe most to the Arbitration law. Those in Auckland, whose condition in the years before 1895 was in some cases bad, gained an increase of wages estimated at 15 per cent, and an agreement that union women should not be shut out of any workshop, or any preference given to non-unionists. As recently as 1892 it had been found impossible to establish either a tailoresses' union or a fair factory log in Auckland. In 1900, when this first agreement made under the Arbitration Act ran out, the Auckland tailoresses gained further concessions without going before the local conciliation board. Their second agreement, however, was filed in Court in pursu-

ance of the Act, and in that way gained legal force. The tailoresses in Wellington were even more fortunate. They obtained in September 1898 a two years' award giving preference to unionists; limiting apprentices to the proportion of one to four work-women; ordering that no two apprentices were to be admitted to the same post in one year; and stipulating that all work should be done in the employer's shop, and that overtime should be paid as time and a quarter. The award fixed the following minimum rates of pay:—

	A Week.
First-class hands	£1 10 0
Second-class coat hands	1 7 6
Second-class vest and trousers hands	1 5 0
First-class machinists	1 10 0
" "	1 5 0

The rates under the award gave increases of from five shillings to half-a-crown a week above the terms offered by the master tailors. Apprentices were to begin at half-a-crown weekly and receive rises of half-a-crown every four months. The term of apprenticeship was to be three years for coat hands, and two for others. A similar award obtained next year by the Dunedin tailoresses differed in restricting the proportion of apprentices to one to every three work-women, and in fixing forty-five hours as the working week. Under this award "bespoke" work was to be done in the employer's shop, and the minimum wage was to be £1 : 5s. In 1899 the masters and workpeople of the tailoring trade in Christchurch came to a settlement between themselves which was filed as a legal industrial agreement. In this case also the minimum weekly wage of women was fixed at £1 : 5s.[1]

[1] In May 1902 the Arbitration Court gave an award which is interesting, because in one document it dealt with the tailoresses and their employers in

Though the grant of preference came as a surprise, and by no means a pleasant surprise, to many employers, the Act sailed along smoothly enough during 1896 and 1897. It was lucky in a friendly legislature, a first-rate president of the Arbitration Court, and in the good-humoured determination of the public to give it a fair trial. The absence of formality from the proceedings under it saved it from being swamped by a load of costs, or stranded on the barren sands of technical quibblings. Mr. Justice Williams, the first judge of the Supreme Court to preside over the Court of Arbitration, was too good a lawyer to outrage justice, and too sympathetic a man to forget equity. There are jurists to whom it would be a joy to wreck such a law: he tried to make it succeed. With unwearying patience and kindness he piloted the measure through the shoals that are apt to beset venturesome experiments in reform, and managed to retain the respect of employers while winning the confidence of trade unionists. The most pertinacious enemy of the Act has written that to Judge Williams was due "whatever measure of success the Act may have achieved so far." The exclusion of barristers from the conduct of cases was an undoubted advantage, irrelevant and long-winded as a few of the lay agents and union officials were occasionally found to be. The most important piece of good fortune, however, that the experiment met with was the steady revival of prosperity. In vain did a few critics cry out that the law was driving capital out of the colony, discouraging enterprise, and bidding fair to be a curse

three towns—Dunedin, Wellington, and Christchurch. This collective treatment was made possible by the Act of 1900. The currency of the new award was to be short (seven months), in order not to prejudice an application to join the Auckland employers and place the trade there under the same regulations as in the other towns.

alike to masters and men. Masters and men found times growing better each season. The public shrugged its shoulders at the predictions of disaster, and let the experiment go on.

In 1898, however, opposition grew rather stronger. Two awards were given which roused some feeling. During the currency of a dispute between a certain coal-mining company and the union to which its men belonged, the company dismissed the president and secretary of the union and the president's son. The union brought the matter before the Arbitration Court, which held that there had been a breach of the clause of the Act which forbids anything in the nature of a strike or lock-out on account of or during any industrial dispute. Under the award finally given, the company was ordered to pay the three men £56 : 14s. compensation, to reinstate them, and to pay the union about £11 in costs. Equitable as the decision was, it naturally enough irritated not only the company's friends but many others.

Then capital began to be made out of the increasing number of references, all proceeding—ostensibly at least—from the workmen. In the first eighteen months after the passing of the law no decisions were given under it, though a beginning was made of hearing two cases. In the next eighteen months there were thirteen decisions, and in the twelve months next following there were eighteen. Twenty-three appeals had been made from boards to the superior tribunal. The demeanour of two labour representatives on a conciliation board was, on one occasion at least, unhappy. A feeling of disappointment with the boards—of which I shall speak later—began to grow up. Then it was said, though very seldom with reason, that unions had been

so hasty in filing claims before the boards that employers found themselves requested to appear as defendants before any chance had been given them to come to a private understanding with their men. Several times, when this seemed to be the case, boards have most justly refused to hear the plaintiffs.

Thus, from one cause or another, the feeling against the Act, though not general, had gained some strength, when, about the beginning of 1898, those who disliked it had a chance of dealing it a blow. Until then the technical flaws found in it were few and small, and a short amending Act, passed in 1896, had been sufficient to cure them. When, however, after two years' use of the statute, it became needful to enforce the penalty clause against certain employers, it was found to be clumsy and obscure. The Court, on construing it strictly, held that it did not give effect to the intention of Parliament, notorious as that intention was, and that no fine could be inflicted for breaches of awards. No remedy was left to aggrieved parties but to proceed by attachment. This the trade unionists were naturally unwilling to do, and on the advice of the Government waited for an amending Act. The amendment was duly brought forward in the General Assembly, but was sharply challenged in the Upper House, where the Liberals were still in a minority; its fate was for a while doubtful, and when a compromise was come to the Opposition exacted a price for permitting the penalty clauses to be made effectual. Henceforth, instead of a maximum penalty of £500 for any single breach of an award, the utmost the Court might inflict was fines not to exceed £500, together with costs, for any breaches however numerous. The words "to encourage the formation of industrial unions and associations" were

struck out of the title of the Act, by way of giving a hint to the Arbitration Court to cease to give preference to unionists—a hint which the Court quietly disregarded. A clause was inserted limiting the power of the Court to fix the age for apprenticeship. Another section very properly enacted that no union should initiate a reference to arbitration without ascertaining, by meeting and ballot, that a majority of its members wished to do so. On the other hand, the Upper House permitted a clause to pass expressly declaring the Court's power to fix a minimum wage for competent workmen in any trade, and at the same time to arrange for a humbler scale of pay for aged or less skilful hands—as, indeed, the Court had already made a practice of doing. The Act thus altered remained law for two years.

In 1899 the Progressive party for the first time got the upper hand in the Legislative Council. At the end of the year the general election trebled their majority in the House of Representatives. Meantime the arbitration tribunals had been kept busy. Judge Williams had resigned through ill-health, but the judges who successively followed him did not upset his decisions, though two or three of theirs were very unpalatable to the unionists. From time to time the preference clause continued to be inserted in awards. Dissatisfied employers decided, therefore, to invoke the Supreme Court of the colony, though the section of the Act which forbade any interference with the Arbitration Court had been worded in the strongest legal language at the draftsman's command. In the face of this a firm of plumbers and gasfitters applied to the Supreme Court at Christchurch for a *mandamus* to forbid the Arbitration Court to order preference to union men. Mr. Justice Denniston dismissed the motion, holding that the Arbitration

Court could do as it thought fit. The employers took the case to the Court of Appeal, only to find the Chief-Justice concur with Justices Williams and Conolly in supporting Judge Denniston. The Chief-Justice, indeed, was at no pains to conceal his dislike to the principle of preference. It was, he more than hinted, an interference with natural justice and a substitution of status for contract; however, the Arbitration Court had power to grant it. Mr. Justice Williams said, "The Arbitration Court had jurisdiction to decide a dispute in such a manner as it considered just. The Act conferred no status on a workman who was not a member of a union. It was not intended that they should be represented, nor did it contemplate that a decision giving preference to unionists should affect any legal right of non-unionist workmen. The non-unionist had no legal right to demand employment. He could sell his labour on what terms and at what price he chose, provided he could find an employer able and willing to accept his terms; but he had no right to demand that there should be an employer able and willing to accept his terms."

These judgments were delivered on the 10th of May 1900, and were, of course, a triumph for the trade unionists. The attempt to upset their preferential right by invoking the Supreme Court was, for the time at any rate, the last hostile move made by any employers of consequence. In 1899 less feeling had been shown against the Act than in 1898, and in 1900 employers and unions were either working together in the friendliest fashion or settling their differences before the Court good-temperedly enough. Another bomb-shell, however, was now to burst in the unionist camp. It came in the shape of a series of decisions by

the Court of Arbitration which very seriously limited the scope of its jurisdiction. Section 3 of the original Act had given the tribunals jurisdiction in disputes amongst persons directing or engaged in or about works, businesses, or undertakings "of an industrial character." The Court now decided in a succession of references that this definition did not include wharf labourers, tramway men, grocers' assistants, or livery stablemen. This was all the more surprising, as seamen were admittedly included, and one of the chief objects for which the Act had been framed had been to prevent a paralysis of the transport of the colony. On all hands it was admitted that these limiting decisions must be met by legislation, and this time the Government resolved not only to amend the law thoroughly, but to consolidate it.

Backed by commanding majorities in both Houses, Mr. Seddon, who took personal charge of the consolidating measure, easily had his way. With no great trouble the re-drafted measure was placed on the statute-book, where—with an amending Act of 1901—it now furnishes the student with the law on the subject. The debates on it showed how far public opinion had marched in ten years. When the Arbitration Bill was first printed in 1891, it was considered so strange and dangerous that the framer was not permitted to move the second reading for twelve months. In 1900 the measure as a whole found nobody to attack it—or, to speak by the card, one courageous gentleman did so, at the price of being mildly chaffed and likened to Rip Van Winkle. In the Upper House the Hon. John Rigg, whose speech on the amending Bill of 1898 had contained the most instructive review of the working of the law to be found in the New Zealand *Han-*

sard, again spoke ably in defence of the compulsory system. In 1900 there was nó one to take the part of *advocatus diaboli*. Some sharp fighting there was, but it turned not on any general principle but on two important details. The first of these was a proposal to bring all Government servants under the Court's jurisdiction. It was resisted by Ministers, who urged that Government servants were generally well paid and contented,—which is true enough,—and that they had in Parliament a court of appeal of their own which ought not to be made subject to any tribunal outside. It was also pointed out that departmental classification Acts ought not to be meddled with except by Acts expressly passed to do so. On the other hand, Ministers, as might be expected, were taunted with their unwillingness to swallow the dose which they prescribed for the private employer. Beaten for a moment by a small majority in committee, Mr. Seddon rallied his party and cut out the amendment. In the end, by way of compromise, the Act was extended to the workers on State railways. Their union is now allowed to resort to the Arbitration Court, though not to local conciliation boards. This, as it happens, is exactly what the framer of the Act of 1894 had meant that they should be able to do. At present all other civil servants are outside the Act, and the railway men do not seem in any hurry to make use of it.

The other bone of contention was a proposal to allow each award to apply throughout the colony instead of being confined to one industrial district. This was worried at length and with heat, mainly because the clause was thought to be aimed at the special conditions of industry in the province and town of Auckland. Here, too, a compromise was come to.

The Court had power given to it to make colonial awards, but any union of employers or men belonging to a district other than that in which the Court was sitting at the time could lodge a protest. If they did so, the award was suspended in their district until the Court had sat there and heard and determined their objections.

Other important changes were made. By section 23 it is provided:

(1) An industrial dispute may relate either to the industry in which the party by whom the dispute is referred for settlement to a board or the Court, as hereinafter provided, is engaged or concerned, or to any industry related thereto.

(2) An industry shall be deemed to be related to another where both of them are branches of the same trade, or are so connected that industrial matters relating to the one may affect the other—thus: bricklaying, masonry, carpentering, and painting are related industries, being all branches of the building trade, or being so connected as that the conditions of employment or other industrial matters relating to one of them may affect the others.

(3) The Governor may from time to time, by notice in the *Gazette*, declare any specified industries to be related to one another, and such industries shall be deemed to be related accordingly.

(4) The Court shall also in any industrial dispute have jurisdiction to declare industries to be related to one another.

The original Act had taken no cognisance whatever of unorganised work-people. It was now enacted that any non-unionist working for an employer bound by an award should himself be bound by the same award, and should be liable to a fine of £10 for breaking it. This was the natural corollary of the Court's practice of ordering employers to treat non-union workmen exactly as though they were unionists. Again, any new firm or employer starting in a trade at once became bound by and subject to any award then in force in the same

way as the traders with whom he was entering into competition. Instead of the opinions of conciliation boards being mere recommendations, they were given legal force, in default of an appeal against them to the superior tribunal—an appeal which must be lodged within a month. In other words, conciliation boards were turned into arbitration courts of first instance. The maximum currency of an award was extended from two to three years, and, more significant still, it was enacted that even after its term had expired an award should continue in force until one of the parties thereto applied to the Court for a revision. This means that only by the legal dissolution of all the registered unions of a trade, or the express fiat of the Court itself, can a trade once regulated cease to be regulated.

Less important, perhaps, in principle, but of much practical and immediate effect, is a bold extension of the field of operations to shop assistants, and, virtually, to all manual and clerical workers, whether handicraftsmen or other. The workers who had been shut out by the judges' restrictive interpretation of the original Act at once hastened to register, and towards the end of the year there was a crop of new industrial unions. The simplest way to show what Parliament thought of the preference question will be to cite two subsections by which jurisdiction was conferred upon the Court and boards to deal with.

(1) The claim of members of an industrial union of employers to preference of service from unemployed members of an industrial union of workers.

(2) The claim of members of industrial unions of workers to be employed in preference to non-members.

£500 was still left as the maximum fine to be imposed for breaches, however many, of any one

award. Costs, however, were no longer to be included in computing the sum. This in practice makes it possible to inflict a heavier penalty, though costs in arbitration cases are never crushing; no costs, for example, may be allowed for counsel even if, as occasionally happens, counsel are employed. Up to the time of writing, the heaviest single penalty which the Court seems to have inflicted is a fine of £25.

To sum up, the law, as remodelled in 1900, counteracts the judges' limiting decisions, extends the scope of the arbitration tribunals' jurisdiction, and carries the principle of compulsion further than the Act of 1894 ventured to do. Non-unionist workmen are in certain circumstances brought within the jurisdiction—clerks, also—a step not thought of in 1894. Conciliation boards are made courts of first instance; awards are made permanent in default of a fresh "dispute"; and, subject to certain safeguards, an award may have force throughout the colony.

The expansion of the scope of the law in 1900 led to a rush of cases in the following year. The consolidating Act had made all recommendations of conciliation boards final and legally binding, unless appealed against within a month. This attempt to reduce the number of references to the higher tribunal did not succeed. The proportion of "disputes" settled by the boards only slowly increased. Of the first thirty-one cases under the Act they managed to compose eight, and but twenty-nine out of the first eighty-six; when the number had increased to a hundred and fifty, they had accounted for forty-five. This was much less than had been expected of them when the Act was framed. It will be remembered that the opposition to the measure in the years 1891-94 was entirely aimed at the

Arbitration Court. The battle which the author of the Act had to fight was, first and last, on behalf of the Court: all parties professed to believe in conciliation boards. Impressed by this, the Minister of Labour, though indicating that he thought that the ideal system would be a single circuit court, not only provided for conciliation boards, but at one time built great hopes upon them. Indeed, he went so far as to say in 1894 that he believed that nine disputes out of ten would never get as far as the Court. Another year's experience of the attitude of a section of the employers towards the law caused him to modify this hopeful view. Speaking in Wellington in 1895, he pointed out that conciliation boards were not any indispensable basis of the arbitration system; the Act could be worked without them. He still urged, however, that they should be used, and believed that they could and should dispose of minor disputes at least. I may here point out that the boards designed by him were to be unpaid bodies whose procedure was to be as informal as possible. When in 1894 the Legislative Council inserted an amendment in the Bill providing for the payment of boards, he resisted this, and, supported by the Lower House, succeeded in getting it struck out. He had, moreover, provided that if the employers and unions of any district did not care to set up one of these unpaid, informal boards, then any dispute could be taken direct to the Arbitration Court. Whether in practice such a plan would have worked need not be discussed, because it was never tried. The author of the law left the colony in January 1896, and the Government decided, first, to set up conciliation boards in all districts where one side asked for them; and second, to pay members of boards a fee for every day

on which they sat. Though the public took no notice whatever of this change, which was provided for in the amending Act of 1896, it was an important change. When, however, it was seen that the employers' representatives on some of the boards were not elected by employers but nominated by the Government, there was some outcry. In some districts the employers at first refused or neglected to choose their half of the board. In certain instances this was because they did not want to have anything to do with setting up the machinery of the Act; in others, because they did not care to be at the trouble of associating and registering for the purpose. Thus, for some years, the employers sitting on several boards were Government nominees. This was made a handle for attacking the law and for insinuating that the nominees were paid servants of the ministry, "who," said one English critic, "lay under a strong inducement to please their masters rather than do justice." This was a very unjust suggestion. The nominated members were, without exception, men of good character and honest motives, and were not unionists but members of the middle class. Theirs was not a salaried office; they were treated as special jurymen, and were paid a guinea a day when actually sitting. The cases referred to them were divided amongst six or seven boards, and for one board to have half-a-dozen in a year was—in the days of these nominee members—a good allowance. The members were appointed for three years, and the Government could not remove them. Hot as political feeling is in the colony, no charge of corruption was ever made against any of them. Finally, it should be conclusive to point out that the trade unionists appealed to the Arbitration Court as often from the decisions of

the boards on which the employer-members were nominees as from the boards where they were elected. Still, without doubt, the refusal of the employers in parts of New Zealand to elect members to the boards weakened these bodies. Though by common consent the nominees did their work honestly and well, hostile critics could claim that they did not represent the employing class. That complaint died away as the nominees were gradually replaced by elected men. But in the meantime the paid conciliation boards had come to be regarded, and to regard themselves, as courts of first instance, and to proceed, for the most part, in formal and methodical ways. Yet they did a great deal of useful work. One of them, the board for Otago, proved in many respects a model body. If they did nothing more, they threshed out cases for the Arbitration Court; and they often did more. Speaking of them, at Christchurch, in 1901, Mr. Justice Cooper, the President of the Court, said:

> He would be very sorry if there were any impression in the public mind that the boards were not a necessary part of the Act. They were very necessary. They were capable of bringing the men and the employers together, and in many instances they had succeeded in conciliating. . . . Continuing, his Honour said that he thought his colleagues would agree with him that the Canterbury board of conciliation had done very good work, and he, for his part, would be very sorry to see the boards abolished. . . . He spoke for his colleagues as well as himself when he said that the boards of conciliation were an inherent feature of the Act, and as far as he knew they had done their work faithfully and well.

Some of the appeals from their recommendations have been on one or two points only, or have had to be made because one or two employers from amongst a number affected have refused to accept a board's verdict.

Thus in a dispute in the painting trade, when twenty-four employers were cited by the union before the local conciliation board, twenty-three accepted the board's recommendation and one stood out. To induce this solitary recusant to conform, the case had to be taken to the Arbitration Court and there practically gone through once more. In most cases the Court has sustained the board appealed from. The process of threshing parts of cases out twice has this advantage amongst others that, by the time it is over, all concerned are usually tired of the business and frankly anxious to accept any reasonable adjustment.

Nevertheless, there was dissatisfaction with the boards. To a certain extent public opinion made them scapegoats for the tediousness of the provincial system of which they were part. To regulate a New Zealand industry with branches in all chief districts of the colony, case after case had to be heard in district after district. Then each case might lead to an appeal to the Central Court. As there are seven boards in the colony, the settlement of a single widespread industry might conceivably lead to fourteen cases. In a highly centralised colony like New South Wales, under the form of arbitration now law there, the whole business may be disposed of by a single reference. This, if not impossible in New Zealand, would have been a most dangerous short cut to try in 1894. So decentralised are the colony's industries, so marked her divisions of surface and climate, that local feeling would not have tolerated handing over to one court a sweeping authority to be exercised in one sitting. The provincial system was a necessity, and the double hearings, wearisome and sometimes needless as they were, often prevented costly mistakes from being made. Yet a system so inevitably

cumbrous was a target which critics who shot at the Act could not miss. In 1901 there was genuine discontent with it—discontent which centred in the board of conciliation for the city of Wellington. The complaints against this board are summed up in the following paragraph from the *New Zealand Times* :—

The return presented to the Legislative Council, giving statistics of the operations of the boards of conciliation during the past year, certainly shows Wellington in a most unfavourable light.[1] Not only had the board of this district by far the largest number of cases of any district, but its cost exceeded that of all the other boards put together. There may, of course, be greater industrial discontent in Wellington than elsewhere ; but the accusation that this discontent has been fanned by agitators . . . is presumptively supported by the fact of the large number of disputes initiated, as well as by the unconscionably long time occupied in hearing them. One case absorbed thirty-eight sittings of the board ; two others took twenty-five days each. The contrast between the Auckland and Wellington boards is most marked. The former had ten cases before it in the course of the year, of which six were settled by conciliatory process, and only four were sent to the

[1] "The return furnished to the Legislative Council shows that between April 1900 and June 1901 the Conciliation Board in Auckland settled six cases, and four were sent to the Arbitration Court. The Canterbury Board settled two cases, and eleven went to the Court. In Otago two cases were settled by the board, and thirteen went to the Court. In Wellington the cases in which recommendations of the board were agreed to and the number of days occupied were as follows:—Plasterers, 6 days ; saddlers, 4 days ; Napier painters (withdrawn on recommendation of board), 2½ days ; drivers (partly accepted), 25 days ; hairdressers (modification agreed to), 8 days. Two cases settled by board, one partly settled by board, one modification agreed to, one withdrawn on recommendation of board. The cases referred to the Arbitration Court from the Wellington district, with the number of days they were before the boards (only) were as follows:—Linotypists, 25 days ; coach-workers, 2 days ; wharf labourers, 38 days ; butchers, 14 days ; match-factory employees, 7 days ; painters, 2 days ; carpenters, 10 days ; tailoresses, 3 days ; tailors, 12 days ; wharf labourers, 5 days ; timber-yards, 14 days ; drivers (partly accepted), 25 days ; builders' labourers, 5 days ; bookbinders, 5 days ; cooks and waiters, 17 days. Fifteen cases sent to the Court. The cost of salaries, fees, office and other expenses of the conciliation boards for the year were :—Auckland, £366 : 3s. ; Wellington, £1089 : 16 : 5 ; Westland, £17 : 6 : 4 ; Canterbury, £109 : 4s. ; Otago, £220 : 14 : 2 ; and Taranaki, £8 : 8s. The Arbitration Court for the same period cost £1659 : 9 : 9."

Arbitration Court. The latter had twenty cases, of which only two were settled outright by the board, three were subject of compromise, and fifteen went to the Court for compulsory adjustment. If all the boards were like that of Auckland, there would be no reason for the cry that "conciliation does not conciliate"; but when in three-fourths of the cases brought before them the boards fail in their special function, it is time to set about amending their constitution and limiting their powers for mischief.

In June the Prime Minister, in replying to a workmen's deputation, made some very strong reflections upon the block of business before the boards and the meagre results. His words were eagerly seized upon, circulated, and exaggerated until it was noised abroad in England and America that Mr. Seddon had admitted that compulsory arbitration had broken down. All that Mr. Seddon had wished to do was to utter a warning against a state of things which was becoming unsatisfactory, and of which persons who wished to discredit the law were taking full advantage. Something had to be done. It was open to Parliament to alter the constitution of the boards by abolishing the elective principle and empowering the Arbitration Court to nominate them; or by substituting trade boards for general boards. Parliament could have docked their pay. It preferred to permit either party to a reference to turn the flank of a local board and go straight to the Court. A clause providing for this was inserted in an amending Act introduced by the Government, and though the ministry resisted it, it became law on 7th November 1901. Several cases have since been taken direct to the Court; a number, however, have been brought before boards in the ordinary way. It is too soon to say whether the single hearing is likely to give awards as carefully drawn and as successful in avoiding doing

injury to trade as were the awards under the system of double hearings. The Arbitration Court, however, has now six years of experience to go upon; it has already handled nearly all the colony's industries; and a shortening of procedure which might have led to disaster five years ago may not do so now. The public temper which led to the change is fairly expressed by the *New Zealand Times* in the article already quoted from.

> It is, in a sense, perfectly true that the adoption of these amendments will strike at the root of the original Act; but in the true sense it will not do so. It will be a confession that the idea of the author of the Act has proved fallacious—a proof of the failure of his expectation that conciliation would be the rule and arbitration the exception. But there is no more futile task than quarrelling with facts. The facts provide the justification for the amendment of the law on the lines contemplated. Arbitration has been the rule; conciliation the exception. All parties to disputes abide cheerfully by the awards of the Arbitration Court; very few accept those of the boards. This may be due to the human craving for finality, as much as to the defective methods and non-judicial findings of the conciliation boards. But, finality being desired, why should we, under pretence of conciliation, continue a system that has been abused, and has been proved to provoke and exasperate, instead of conciliating? The Bill now before the Legislature proposes a happy solution of the problem, by leaving the conciliation boards in existence, to be invoked by those who have confidence in them, while at the same time providing for disputes going instead to specially chosen boards, or direct to the Court, which possesses the confidence of every one. It is to be hoped that the Bill will become law without material alteration. If it does, the "industrial peace" of the past six years may be expected to become millennial in its profundity and permanence.

Before the Act was passed nothing was more common than to hear the prediction that it would be a dead letter. Even some of its friends thought that the hereditary suspiciousness of the trade unionists would

make them slow to touch it. As already mentioned, they did not try it for twelve months. The free use they have since made of it has formed, as the reader has seen, the chief text of the complaints made against it. It is, indeed, true that for six years there has never been a time when there has not been a labour reference pending before the Arbitration Court and one of the conciliation boards; usually there are several being heard or set down for hearing. It is complained that the law which was to bring industrial peace has actually multiplied disputes beyond anything that was dreamed of before its enactment. The fine old simile of Medea's sowing of dragon's teeth has been applied, and excitable letter-writers have pictured the colony as a seething cauldron of controversy, where enterprise has been frightened and industrial turmoil and social bitterness have grown apace. These charges are, at the least, wild exaggerations. What the Act was primarily passed to do was to put an end to the larger and more dangerous class of strikes and lock-outs, and this it has done. It was not passed to prevent references to arbitration, but, on the contrary, to encourage them and to provide machinery for dealing with them. The more effectual the Act was found to be, the more certain it was that these references would grow in number. The second object of the Act's framer was to set up tribunals to regulate the conditions of labour. To class arbitration cases with strikes and lock-outs is, to put it mildly, unreasonable. Call them "disputes" if you please, but they are not industrial war. During the hearing of them the factories or mines concerned remain open and work goes on as usual. Nothing has been more remarkable than the good temper and pacific tone commonly shown by all parties before boards and

courts. The process of investigation may be tedious, but it is not costly. Lawyers are not employed as counsel unless all parties to a case agree thereto, and they very seldom do agree. A firm of employers may appear by a manager or accredited agent ; a trade union is usually represented by its secretary or some other official. Occasionally some speaker is prolix or unbusinesslike, but as a rule those conducting the cases have been prompt and courteous, as the chairmen of the boards have spontaneously testified. The inquiries are often dull, humdrum affairs, and, as we have seen, there have been angry complaints that boards—one board especially—have wasted time. But all this, far from implying industrial warfare, implies industrial peace. In the colony of Victoria, the conditions of labour in most of the factories are now settled by State wages boards, composed like the conciliation boards in New Zealand of employers and workmen, and empowered like the New Zealand Arbitration Court to give binding decisions ; yet no one calls the discussions on these wages boards battles. Nor are the many inquiries and arbitrations which take place yearly in England under the rules made by the Board of Trade ever regarded as mischievous instances of industrial warfare. State arbitration in New Zealand does not stop industry, waste the funds of unions or the capital of employers, does not ruin thrifty workmen and bring misery into their homes, does not hurt trades related to the industry under arbitration and tradespeople who have dealings with the parties concerned, does not injure the public and drive away trade to foreign countries. Strikes and lock-outs do these things—not arbitration. Let me show this. When the Arbitration Act came into force on New Year's Day 1895, times were very bad indeed

in New Zealand. The commercial depression, which began in April 1893, and did not begin to pass away for about two years, was one of the severest felt in the colony. In 1895, however, the outlook began to brighten and the subsequent years have been a time of great and increasing prosperity. Imports and exports have grown apace; the external trade, which was £16,000,000 in 1894, was more than £23,000,000 in 1901. The revenue yielded by the customs, income-tax, stamps, and railways has risen rapidly. Employment from being scarce has become plentiful. In all the towns building has been brisk, new factories have been opened, and the shopkeepers who deal with the working class admit cheerfully that business is better and bad debts fewer than at any time in the last twenty years.

Better evidence still is found in the census returns collected in the beginning of 1901. By contrasting these with the figures of the census taken early in 1896, we are able to see the progress of industry during the first years of Compulsory Arbitration. Seldom has a case for the defence been more completely established. The improvement shown is extraordinary.

MANUFACTORIES AND WORKS, 1896 AND 1901

	April 1896.	March 1901.[2]	Increase, 1896-1901.
	No.	No.	No.
Number of establishments[1] .	2,459	3,163	704
Hands employed—			
Males . . .	22,986	35,438	12,452
Females . .	4,403	6,288	1,885
Totals[2] . .	27,389	41,726	14,337

[1] Omitting Government railway workshops and Government printing office.

[2] Excluding dressmaking, tailoring, shirtmaking, millinery, etc., for which there were no returns in 1896. These and certain other workshops, such as

MANUFACTORIES AND WORKS (*continued*)

	April 1896.	March 1901.	Increase, 1896-1901.
Wages paid—			
To Males . .	£1,776,076	£2,895,279	£1,119,203
„ Females . .	131,516	203,282	71,766
Totals[1] . .	£1,907,592	£3,098,561	£1,190,969
Horse-power . .	28,096	39,052	10,956
Total approximate value of—			
Land . . .	£1,063,989	£1,713,254	£649,265
Buildings . .	1,743,073	2,419,803	676,730
Machinery and plant .	2,988,955	3,826,574	837,619
Totals . .	£5,796,017	£7,959,631	£2,163,614

The average annual amount of wages paid to male hands was £77·2 in 1895 and £81·7 in 1900; for females, £29·8 in 1895 and £32·3 at the last census. The wages of both seem to have been more than maintained since that date.

The value of the output of manufactures, which was £9,549,000 in 1895, rose to £17,141,000 in 1900.

A complete register is made every year of the hands employed in the factories and workshops, from the largest to the smallest. Here are the numbers showing the yearly increases since the Arbitration Act came into operation. The Government's workmen are not counted :—

laundries, are included in the returns of the Labour Department. Hence the apparent discrepancy between the number of factory hands given in the Labour Reports and in the returns of the census officials.

[1] See above note.

Years.	Hands.	Increase.
1895 . . .	29,879	...
1896 . . .	32,387	2,508
1897 . . .	36,918	4,531
1898 . . .	39,672	2,754
1899 . . .	45,305	5,633
1900 . . .	48,938	3,633
1901 . . .	53,460	4,522

It has been denied in England that the Act has put a stop to strikes, and certain small labour quarrels have been cited in proof of this. These have been five or six in number. The strikers have been either in Government employ or unorganised labourers. The first strike took place in a gold mine in 1896. The company owning the mine reduced wages from 10s. to 8s., and the men struck. The Arbitration Act was then a novelty; the men had scarcely heard of it. They were advised to invoke it, did so, and the strike came to an end. In 1900, about forty men engaged in hauling coal from a coal mine in Westland struck for higher wages. The company which employed them stood firm, and the men, on the advice of their fellow-workmen, the heavers in the mine, who had already formed a registered union and were under the Act, resolved to follow their good example and register likewise. The struggle then ended after lasting but a few days. Three other strikes were of workmen engaged in Government employ, and therefore excluded from the Arbitration Court. In one case the strikers were some fifty unorganised bricklayers, in the others fifteen or sixteen railway hands. With the bricklayers the Government voluntarily agreed to go to arbitration, but the award of the specially appointed arbitrators had of course no legal force, the men foolishly refused to abide by it, and their places were given to others. In the insignificant disputes

with the railway men the Government simply rejected the demand, and the strikers hastily resumed work. In 1901 a number of bricklayers in Auckland asked for better terms from their employers, who agreed to give them. The men demanded that the advance should come into force at once, the employers that a month should elapse before the change. The men, who had no union, struck and stayed out for a fortnight, at the end of which the masters agreed to give them the increase for the remaining fortnight of the month in dispute. This silly quarrel, which arbitrators could have composed in five minutes, arose appropriately enough on the 1st of April, and was settled on the 13th. These, with another small and short-lived strike of unorganised gold-miners, comprise all the New Zealand labour wars of the last six years. It was never intended that the Act should apply to strikes by unorganised workmen. Its framer contended that these were never likely to be formidable enough to constitute a danger to the public welfare, and therefore did not call for State interference. The trifling nature of the outbreaks just enumerated supports this view. The total number of men concerned in them all is less than 300. Such affairs certainly do not show that compulsory arbitration has failed. They only prove that it has not been used in certain petty disputes of a class to which it was never meant to apply.

I now come to the chief document in evidence on the working of industrial arbitration in New Zealand,—the report of Judge Backhouse. This gentleman was despatched by the Government of New South Wales to ascertain the truth about the matter. New South Wales, like certain other countries, had been fed with stories of the mischievous and ruinous effects of the

law upon the industries and temper of New Zealand. When in 1900 Mr. Bernhard Wise first tried to get the Sydney Parliament to enact a similar law, his opponents, aided by these tales of tyranny and damage across the sea, managed to have his Bill rejected. The ministry to which Mr. Wise belonged then took the sensible course of sending a Royal Commissioner to New Zealand and Victoria to ascertain the truth about arbitration in the one colony and the wages board system in the other. In choosing Mr. Backhouse they selected a hard-headed county court judge, of full experience in weighing the value of evidence and testing human veracity. Judge Backhouse was certainly unprejudiced, and his character and ability, together with the cool, dispassionate tone of his report, make it the weightiest piece of testimony yet available on the subject. I say this, though I disagree with two or three of its conclusions.

Judge Backhouse pursued his inquiries in New Zealand from 21st March to 11th May 1901, passing up and down the colony and crossing it. He examined papers and witnessed proceedings, and, as any hostility there might be to the law was to be found among the employers, he gave up most of his time to interviews with factory-owners and managers, or with professional men who had been prominent in finding fault with it. He states that he saw cabinet ministers, judges, civil servants, politicians, arbitrators, members of conciliation boards, chairmen of chambers of commerce, bankers, financiers, manufacturers, solicitors, mining-managers, and trade union officials. In all he had interviews with one hundred and fifty persons, and in many cases had their statements taken down by his shorthand writer. It is admitted that he selected his informants well, and

gave every chance to the law's critics. I will now quote portions of his report, placing them under sub-titles :—

Boards of Conciliation

It is said, with truth I have no doubt, that there are members who are in the habit of fomenting disputes—disputes which they subsequently have to consider—between employers and employees, and that the vicious system of payment by fees for each sitting is partly responsible for the adoption of this course of proceeding. To me it is clear that some members entirely fail to properly appreciate their function, and in the way described, and in taking an active part outside in the furtherance of the claims of one of the parties, become partisans out and out, rendering their boards boards of irritation rather than conciliation. The result of this is, that when a reference has to be made from these boards to the Court, the parties come to it more antagonistic than they were when the dispute arose. There would certainly appear to be some justification for a remark reported to have been made by Mr. Brown, a member of the Court, at the sitting held at Christchurch in April last: "It seems to me that the Court's business is to undo a good deal of the mischief done by the conciliation boards." In some cases members fail utterly to understand the position in which they are placed. At Auckland, in March of this year, one of the members of the board is reported to have said: "I give you notice that I am here as a partisan; I do not think I am in the position of an impartial judge here. I am to represent one side of the case, and I intend to do that at every opportunity." When this is the attitude assumed, it is easy to understand how effective conciliation is impossible. But while these complaints are made—justly I believe, —the boards, taken as a whole, have done much good work, and in some cases they are held in the highest repute. The Otago and Southland Board, for instance, has the respect of all. Originally the employers did not elect their representatives, but two capable gentlemen were appointed, a chairman was agreed upon by all the other members, and the result of the labours of the body was most satisfactory. The present board, with an elected, not an appointed, chairman, has the public confidence to the same extent as had the first board. Many of the recommendations of this board have been accepted, and many others, when cases have gone to the

Court, have been practically adopted in the award. Other boards, too, I believe, have done useful work. . . . One of the causes of the failure of the boards to realise Mr. Reeves's idea that they would settle 90 per cent of the disputes is, I believe, owing to the objection shown by employers to the carrying out of the provisions of the Act. They are ready enough to complain of certain appointments; but they will not themselves take the trouble to select their own representatives, and so to make some of the appointments objected to unnecessary. I have already pointed out that a large number of employers have not formed unions under the Act, and are therefore incapable of taking part in an election. Another cause of the partial want of success of the boards is the holding of the office of chairman by men by neither temperament nor training fit for the position. Another reason, to my mind, of the failure to conciliate is the procedure which is frequently adopted. It is generally the same as that of the Court. The party making the claim is asked to prove his case, which the other side is then called on to answer. This method appears to me by no means the best, and from its nature is likely to make each side more aggressive. If the matters in dispute were quietly talked over in an orderly way,—it is, of course, necessary that the chairman should have all the powers of the Court as to keeping order, and should see that every one is treated with due courtesy, and, generally, that the proceedings are properly and decently conducted,—the points of difference would be got at, and on these the board could itself call evidence.

The Court of Arbitration

Of this Judge Backhouse says that generally the greatest satisfaction is expressed with its constitution, its proceedings, and its decisions. Whilst explaining that its functions are to decide, not to conciliate, he goes on to say:

I do not wish to convey in any way that the Court does not attempt to conciliate; it is always most zealous in doing so, and frequently brings the parties to an agreement. For this purpose it is not unusual for the president at their request to meet the parties in conference privately. There is one matter about which

both sides are very emphatic, viz. the necessity of having a Supreme Court Judge as President of the Court. No one, not even one having the status of a Judge, no matter from what walk of life he came,—no Judge appointed merely for the purpose of the Act,—would be acceptable; the head of the Court must be a Judge of the Supreme Court actually taking part in the work of that Court. While, no doubt, the Judges appreciate this expression of confidence in them, most, if not all, of them would like to have nothing to do with the administration of the Act, thinking that it involves them in matters in which it would be much better they should not be concerned. The Court has a wider jurisdiction and greater powers than perhaps any Court in the British dominions. From it there is practically no appeal, as the jurisdiction is so far-reaching, and as long as it acts within its jurisdiction, no Court can restrain it. It hears cases in any way which it prefers, as it is not bound by the ordinary rules of evidence; and it interprets its own awards, and fixes the penalty for any breach. Great are its powers, and equally great are its responsibilities, for on it really depends the successful working of the Act. As long as the Court recognises its duties to both sides and wisely exercises its wide powers, it will satisfy the people; but once it fails in doing either, it will be looked on as worse than useless. So far, under comparatively easy conditions—what I mean will appear later on—it has succeeded in realising the hopes of its founder.

I was particularly struck with the amount of care which is bestowed on drawing up an award. In some complicated trades, as the bootmakers' and the tailors', there is an amount of detail which, until one has seen the Court actually at work, one would think would be outside the grasp of a tribunal. Having been present at one of its sittings, I can fully understand how it is possible for it to go into, and how it does go into, these niceties. I heard a comparatively simple case in which the Typographical Society of Christchurch was attempting to bring the country employers into line with those of the town. The different conditions of living and working in the one place and the other were fully inquired into.

The Production of Books

It will have been noticed that the boards have no power to call for books, but the Court has. This power was not made the

subject of any serious objection by any employer to whom I spoke. It was recognised that they would be asked for only when they were necessary, and that the power merely extended the liability under which persons now are.

Appearance of the Parties by Barrister or Solicitor

As I have pointed out, unless all consent the parties cannot so appear before the Boards or Court. Rarely is the consent given, and it may be said that they are not allowed. As far as I saw, their interests did not suffer. The cases which I heard were ably conducted by representatives of both sides. All the points were clearly brought out, and sufficient material provided for the Court to come to an equitable decision. In speaking to one of the Judges, I asked whether it would be an improvement, in his opinion, to allow counsel to appear. His answer was significant: "It depends upon the counsel."

The Effect of the Recommendations of the Boards, and of the Awards of the Court, on the Investment of Capital in and on the Expansion of Industries

Generally, I should say that my investigations showed that, with possibly one exception, industries have not been hampered by the provisions of the Act. To attempt to decide whether capital under other conditions would have been invested in particular industries is to undertake a task which has merely to be mentioned to show its impossibility. No doubt general statements were made that this abstention had been practised, but I found it more than difficult to get specific instances. Any cases which were mentioned, on investigation hardly bore out the view put forward. For instance, I was told of the delay in the building of a shirt factory at Auckland; but the factory is now up and in full working order, and it was one of my pleasantest official sights, when going over it, to see the large number of healthy girls working under conditions which seemed almost perfect. Incidentally, I would pay my tribute of admiration of the excellent provisions of the Factories Acts, which result in this state of things being normal with all the operatives.

Speaking of the building, coal, shipping, and clothing trades, the report says:—

Generally the effect of the awards (in the building trade) has been in favour of the men, granting shorter hours, higher wages, and other benefits. Certainly no one can say that up to the present the contractors have suffered. Building appears to be going on everywhere, and there seems to be more work than the men are able to do. I interviewed representatives of the Builders' Associations at Wellington, Christchurch, and Auckland, and they almost unanimously expressed approval.

I have very little doubt from what I heard that the coal industry not only has not been hampered by the provisions of the Act, but that it has derived advantage from them, and that without them it is more likely than not, considering the state of the coal markets of the world, there would have been serious trouble between the owners and the men.

The shipping round the coast of New Zealand is principally done by two companies—the Union Steamship Company and the Northern Steamship Company. Both of them have had experience of the working of the Act, and although Mr. Ransom, manager, complains of the manner in which his company, the Northern, was made a party to proceedings, he fully believes in the principle of the Act. Mr. Mills, the managing director of the Union Steamship Company, has publicly expressed his approval.

. . . . .

The clothing industries, although awards regulated them, I found in a high state of activity. Mr. Blackwell, the managing director of the Kaiapoi Company, told me that they had great difficulty in keeping pace with the orders; and Mr. Clarke, of Auckland, said that his firm had a standing advertisement for fifty hands. There was the same prosperity in the iron trades, but from what I heard just before leaving it would appear that the wave of prosperity in these trades has reached its height, and that gold dredging having been overdone, there may now be a period of depression, but I do not think the working of the Act has affected them. The conclusion to which I have come is that probably so far no industry, with one exception, which I shall deal with later on, has been crippled or hampered seriously by the introduction of compulsory arbitration. In the Official Year Book for the year 1900 (p. 197) the following are given as the values of the exports of manufactured goods for the several years:—

1897	.	.	.	.	.	£197,601	0	0
1898	.	.	.	.	.	253,805	0	0
1899	.	.	.	.	.	378,066	0	0

The boot trade is the exception I have referred to. Here there has not been the advance which one would have expected from the general expansion in other industries. The boot manufacturers have been working under an award for some years. This expired last year, when there was a fresh reference, which finally came before the Court in April last. It would certainly appear that the conditions imposed have been such that this particular trade has not shared in the general prosperity.

The Act as a Regulative Machine

It goes far beyond settling disputes in which, but for its provisions, there would have been strikes. It is used as a means of fixing the wages and general conditions of labour in many industries, and, without doubt, will eventually be so used in all. While the legitimate increase can be understood and justified, there have been many cases which ought not to have arisen at all. As Mr. Reeves himself says in his book, *The Long White Cloud*, "The trades unions are enthusiastic believers in it (the Act); rather too enthusiastic indeed, for they have shown a tendency to make too frequent a use of it." Take the case of the Denniston miners. When the first award expired there immediately was a reference to the board. True, the board did nothing beyond adjourning the case to enable the parties to come to an agreement, which they were able to do in very much the same terms as those of the previous agreement. A similar thing happened on the expiration of the new agreement, and there was a similar result.

Relations of Employers with Employed

But while there has been this strife, I certainly saw none of that bitterness which is generally engendered by a strike even on a small scale. I saw nothing to justify Mr. Ewington's statement (Debate, *Hansard*, N.S.W., p. 5576): "It does not conciliate, but it exasperates, sets class against class, trade against trade, and it becomes an engine for assaults of big traders on little traders and on vested interests; also on the freedom of employers and of non-unionist workmen." To read that, one would think that New Zealand was in a state of industrial strife which would not only

paralyse all advancement, but would bring about retrogression. I saw none of the ill-feeling which has been painted in so strong colours. On the contrary, one of the things which struck me was the excellent relations which existed between employers and employees. I noticed this in the proceedings which I witnessed before a conciliation board and in the Arbitration Court; there the contending parties, although they were fighting their very hardest, appeared to be on excellent terms. At the Denniston mine, after I had examined the manager, he, of his own accord, brought into his office Mr. Foster, the representative of the miners, and left him with me to give me his statement, and I could see that this was no mere courtesy to me, but was indicative of the cordial relations existing between them. Mr. Frostick, during the hearing of the case of the bootmakers, who have had, as I have said, too wide an experience of the Act, made these remarks: "Never in the history of boot manufacturing in the colony has there been such a good understanding between the employers and the workers as at present"; and "Whatever else the Court of Arbitration has accomplished, it assists in bringing about that excellent feeling referred to by Mr. Cooper."

General Summary

Although I have gone fully into matters in which the Act appears to be defective, I wish it to be clearly and unmistakably known that the result of my observations is that the Act has so far, notwithstanding its faults, been productive of good. I have emphasised what were pointed out to me as its weaknesses, in order that they may be avoided should similar legislation be enacted here. The Act has prevented strikes of any magnitude, and has, on the whole, brought about a better relation between employers and employees than would exist if there were no Act. It has enabled the increase of wages and the other conditions favourable to the workmen which, under the circumstances of the colony, they are entitled to, to be settled without that friction and bitterness of feeling which otherwise might have existed; it has enabled employers, for a time at least, to know with certainty the conditions of production, and therefore to make contracts with the knowledge that they would be able to fulfil them; and indirectly it has tended to a more harmonious feeling among the people generally, which must have worked for the weal of the colony. A very large majority of the employers of labour whom I interviewed

are in favour of the principle of the Act. One only did I meet who said out and out, "I would rather repeal it and have a straight stand-up fight," while another was doubtful whether the present condition was better than the pre-existing. The first, in a letter, has since considerably modified his statement.

The awards generally have been in favour of the workers, and it is therefore easy to understand that the unionists to a man believe in the Act, and, as I have already mentioned, the non-unionists, as far as my observation goes, find no fault with it.

I found, on the part of the men, none of that opposition to compulsory arbitration which is such a marked feature in England and the United States. This necessarily has relieved me of making more reference to the workers' side of the question than I have done.

But while the effects of the Act so far are good, the time has not yet come when it can be said with any certainty that it is a measure which will provide for the solution of all labour troubles. Since it came into operation in New Zealand, everything has been in favour of an increase in the emoluments, and of an amelioration of the conditions of labour, and there cannot be the slightest doubt that wages would have risen if there had been no Act. New Zealand, since the Act has been in force (the original Act was passed in 1894, but the first case under it did not arise until the middle of 1896), has been advancing on an ever-increasing wave of prosperity, and that prosperity has been largely due to a favourable market for its exports, which last year amounted to £13,246,161; and it must be borne in mind that these exports are of commodities which up to the present have been in no way affected directly by the Act, such as wool, frozen mutton, kauri-gum, etc. The market for most of the manufactures is simply within the colony, and it is a market largely guarded for the colonial producer. New Zealand has its unemployed difficulty, for there are wastrels in every community, and misfortune comes on some in the best of times, and it deals with any surplus labour from these or other causes by employing it in co-operative works, giving not only employment but facilities for settling on the land; but the supply of skilled labour does not appear to have been too great up to the present. My hope is that depression may be far distant, but when lean years come, as come they must, unless the world's history leads us to a wrong conclusion as to the future, when there will be curtail-

ment instead of expansion, when wages will be cut down, instead of being raised, by the awards—then, and not till then, can any one speak with authority as to whether the principle involved is workable or not.

The report is not, I think, unfairly represented by these selections. I will only add that it seems to me rather to over-estimate the effect of the Act in raising prices. Six years of prosperity, bringing as they did an increased demand for manufactured goods, had enabled sellers to ask more for certain articles. The price of other articles had not gone up though their manufacture was carried on under awards. Has there ever been a period of prosperity in a colony without a rise in the price of several articles of consumption? Again, any one who has followed the fortunes of the boot trade in the colony for the last twenty years will hesitate before attributing to the Act a chief share in getting it into trouble. During the last two or three years in particular boot manufacturers have been feeling American competition; but New Zealand is not the only place in which they have done so. On the other hand, I think the report takes rather too roseate a view of the feeling of employers. A section of them —not a very large section, perhaps—do cordially dislike the law. A larger number, though passive, would not say anything in approval of it. Again, the arbitration system in New Zealand owes more than the report indicates to the exclusion of barristers from its proceedings, to the continued friendliness of Parliament, to the steady determination of the public to give it a fair trial, and to a high level of intelligence and respect for law in all classes. So far it has succeeded in New Zealand; it might not succeed in countries where men like rougher methods, and prefer to fight

for the whole rather than accept a part of what they think their due.

I need not labour to give proofs of the hold it has gained on public opinion in the colony, or refutations of the wild statements that have been scattered broadcast of imaginary mischief caused by it to master and man. The entire absence of hostility to the remodelling and expanding Act of 1900 ought to be sufficient evidence. If more is wanted, the figures showing the colony's extraordinary prosperity may be turned to. Enough, now, to quote two opinions — one of the managing director of the largest woollen mill in New Zealand, the other of the Chairman of the Royal Commission on the Factories Act of Victoria, who with his fellow commissioners visited the colony at the beginning of 1902; the one may speak for capital, the other puts the case for labour. The director, Mr. Blackwell, of the Kaiapoi Woollen Mills, came in 1900 before a committee of the House of Representatives to offer some suggestions from the Employers' Association for the province of Canterbury with regard to the consolidating Act. Asked whether he wished to add anything to these on his own account, he replied, Nothing, except that he desired to emphasise the last paragraph of the suggestions. The paragraph ran thus:—

"The Canterbury Employers' Association desire to impress upon the Government that they are thoroughly in accord with the principles laid down in the Conciliation and Arbitration Act. Any hostility they may have shown in the past was mainly due to the fact that the Act was made to apply to a certain section of the industrial community only. The Government now propose to remove this, and if the Bill now before the House is amended in the directions suggested by the Association, they are strongly of opinion that it would be impossible to conceive of a more useful

measure, properly administered, that would prove of such immense benefit to all sections of the industrial community; and with this in view the Association urge upon the Government to reconsider their determination not to allow this Act to apply to all workers under the Crown. There is no antagonism now," added Mr. Blackwell, "whatever there may have been in the past. We desire to co-operate in making the present Bill a good workable measure."

The second quotation is from an interview with Mr. Outtrim, Chairman of the Victorian Factories Commission, which journeyed through New Zealand in 1902. It is printed in the Sydney *Daily Telegraph*:—

"We examined a very large number of witnesses from both sides," Mr. Outtrim said, "and, with the exception of one employer, there was a unanimous opinion that the principle of the Conciliation and Arbitration Act is a sound one, and that they would be very sorry indeed to go back to the old order of things.

"Our witnesses were mainly representative of large organisations—men like the President of the Chamber of Commerce, secretaries and presidents of employers' associations, and officers of the various industrial unions. They all say that it is a most beneficial law.

"The Arbitration Court is simplicity itself. The Judge sits in a room at a table on the same floor as the parties to the dispute, having on either side of him the lay members of the Court. The procedure is the reverse of technical and formal. The Judge explains to the parties the various provisions of the Act, and throughout the hearing gives all possible assistance in the conduct of the cases. Counsel are not employed. Never in my life have I seen such a simple Court, and the best of it is that all sections of the community seem to have thorough faith in it. Incidentally, however, I might say that a good Act of Parliament badly administered becomes bad in its effect, while a bad Act well administered may have a beneficial effect. In the hands of Mr. Justice Cooper, the President of the New Zealand Arbitration Court, the Act is certainly well administered.

"The truth of what I have said about administration becomes apparent when you come to look at the Conciliation Boards; their success or failure depends upon the character of their personnel.

In Dunedin, for example, the board is presided over by Judge Chapman's son, a gentleman who brings a trained mind, together with considerable tact, to bear on his work; and the consequence is in that locality the conciliation board is greatly thought of. In some other centres there is less satisfaction, because the administration does not appear so good.

"I think myself that the conciliation clauses, if properly administered, give employers and employees an opportunity to settle their differences before coming before the Court. The conciliation boards are rightly so named."

A number of cases of all sorts have come before the Boards, and the various issues at stake having been gone over by both parties, in a good many instances the two or three points in dispute have been sent on to the Arbitration Court for decision, the evidence taken before the board accompanying for the guidance of the Judge. This method is of great assistance to the Judge, inasmuch as it enables him to thoroughly seize the various points before the parties come formally before him. While the general opinion is that the boards, as constituted, are of the greatest usefulness in clearing away difficulties, a number of witnesses suggested that they would be even more efficacious if their recommendations were made to have the force of law until reversed by the Court.

(*d*) *Mr. Wise's Act*

In 1900 and 1901 organised labour was raising its head again in New South Wales. Its successive defeats in the Maritime Strike, and the other industrial wrestling-bouts between 1890 and 1895, had taught it some valuable lessons without breaking its strength. It had also learned from the earlier mistakes of the labour members in the colony's Parliament, where, after October 1899, the Federal question ceased to complicate politics and hamper the labour party. About the same time the prosperity of the colony began to revive, after the depression caused by the great droughts. The time was opportune for a recrudescence of trade unionist activity and energy. Such a revival came, and with

noteworthy results. The older unions recruited their forces and replenished their funds. New unions were formed. Thirty-four societies joined in the procession on Eight Hours Day in October 1901; three years before the number had been but twenty-five. Even the tailoresses were organised, and, after a series of strikes, obtained better conditions. There were also strikes of ironworkers, builders, wharf labourers, and other workers, and on the whole the settlements were favourable to the men. But the trade union leaders were not deluded by this into believing that strikes were the best means of bettering the standard of living. They had not forgotten the hard lessons of the past; they had been watching New Zealand; and they had made up their minds to transplant industrial arbitration to their own soil. In Parliament the alliance between the Labour party and the Government of Sir William Lyne was close, and it became closer and more fruitful after that gentleman's ministry was reconstructed under Sir John See.

The labour members themselves did not essay the task of drafting an Arbitration Bill or piloting it through Parliament. If they had they might have failed. Certainly any such measure coming from them would have been eyed with something more than suspicion, and, even if passed by the Lower Chamber, might have been resisted to the last in the Upper. Fortunately, the labour members knew their business too well, and were satisfied, as they well might be, to see the enterprise undertaken by Mr. Bernhard Wise, the brilliant barrister, who, after certain political adventures as lieutenant of Sir Henry Parkes, and after doing his share of the framing of the constitution of the Commonwealth, was then Attorney-General of New South Wales.

Mr. Wise decided in 1900 to follow New Zealand's example; but he decided also to profit, if possible, by that colony's experience, and to avoid repeating the less happy portion of it. Moreover, he made up his mind that a system moulded by the intense localism of New Zealand must, in some respects, be unsuited to highly centralised New South Wales. What was wanted was not a slavish copy, but a free and skilful adaptation. It is in his statesmanlike endeavour to provide this that the main interest of Mr. Wise's Act lies.

Introduced into the Legislative Assembly in the middle of 1901, passed by that body, to be presently rejected by the Council, the Industrial Arbitration Bill of New South Wales then ran the gauntlet of a general election. When the See-Labour alliance carried the country, the Council's resistance broke down, and the Bill was allowed to go through. The only important concession made to the Upper Chamber was that the law should have force only until the beginning of 1908. With that proviso it was adopted, and was assented to by the Governor on 10th December 1901.

Its difference from the New Zealand Act begins with the title, in which the word "conciliation" is not found. After much debate the Parliament of New South Wales resolved to strike out any suggestion of a conciliation board, resolving that their Arbitration Court should not merely be a final tribunal, but should do the whole work of the law. The Judge and two assessors composing it are to be paid £750 a year each, with travelling expenses. The assessors are to be elected for three years by bodies of delegates representing unions of employers and trade unionists respectively. During their term of office they may be removed only

on account of bankruptcy or insanity, or in such manner as a Judge of the Supreme Court may be removed.

The disputes to be arbitrated upon include every sort of difference likely to arise between organised labourers and employers. The employers may be organised or not; the labourers must be. The labour societies may either be registered under the Act or be ordinary trade unions. Mr. Wise avoided the trap into which the West Australians fell in their first attempt in 1900 when they confined the jurisdiction of industrial tribunals to conflicts in which unions registered under their Act were concerned. No New South Wales trade union can remain outside the Act by neglecting to register under it. The Court may cite any trade union before it and may include it in any award. By registering, however, the trade union becomes an industrial union able to vote in the election of the labour assessor of the Court. As in New Zealand, an industrial union is to be a corporation with a common seal, entitled to possess and deal with real and personal property.

Nothing in the Act is to render any industrial union liable to be sued, or to have its property or its members' property taken in execution, otherwise than in pursuance of the Act itself, "or in respect of obligations incurred in the exercise of rights and powers conferred by this Act." No identical proviso is found in the New Zealand law, though in clause 7 thereof it is enacted that though a registered union becomes a body corporate, it does so "solely for the purposes of this Act." Only a trade union may register as an industrial union under Mr. Wise's Act—another departure from the New Zealand system. Unorganised workpeople will therefore have to go through a double process of registration. In allowing non-unionist workers to

organise and register under the New Zealand Act, its framer not only wished to avoid this and to attract hitherto unorganised labour, but desired to meet the charge so constantly made against him of conspiring with the labour leaders to limit the advantages of his law to a few close corporations in the shape of existing trade unions. He also thought it well, perhaps, that the new unions should be cut off from the trade unionism of the past, with its militant traditions. Mr. Wise was in a different plight. His problem was not how to tempt apathetic or suspicious unionists to renounce strikes and utilise arbitration. He had to contrive to prevent labour from overdoing arbitration and irritating the public by bringing too many cases into court. The use of his law, therefore, is a privilege given to trade unions, which, to acquire the full privileges given by it, must register under it. To provide that the unions shall not be shams, the registrar appointed under the Act may insist that union officers shall see to the levying of subscriptions, fees, and penalties from the members, and that the accounts shall be fully and truly kept.

Employers are also invited to form and register industrial unions. As the individual employer is considered to be the equivalent unit to a trade union, a single employer, firm, or company may register as a union. Any person or association who does this must have employed not less than fifty workers, on the average, during the last six months before applying to the registrar.

Not only are strikes and lock-outs prohibited during the reference of any dispute to arbitration, but persons who strike or lock-out after a dispute has arisen, before giving reasonable time for an application to be made to the Court, are guilty of a misdemeanour. The punish-

ment for this is a fine up to £1000, or imprisonment for not more than two months. In New Zealand the penalty is a fine merely, and that must not exceed £50. In New South Wales, henceforth, any employer who dismisses a worker for belonging to a union, or because he or she is entitled to the benefit of any award of the Court, is liable to be fined £20. No proceedings under this section (35) of the Act are to be begun without leave of the Court; but when they are begun, the onus is to lie on the employer to satisfy the Court that the dismissal was owing to some other than the alleged reason.

In its procedure the Court is to be as unfettered as that of New Zealand, and, like that, may not be appealed from. It would seem, however, that in New South Wales either side may please itself as to the employment of counsel. The precautions against disclosure of trade or business secrets are emphatically worded. Only an order of the president can compel any party to produce account books. These can only be inspected by the members of the Court, unless the owner consents to let any one else see them; and the members of the Court are sworn not to divulge their contents, under penalty of dismissal from office.[1] Evidence as to trade secrets and profits must be taken *in camera*, if the parties affected thereby so desire.

[1] The members of the Industrial Arbitration Court—Mr. Justice Cohen (president), Mr. Cruickshank (employers' representative), and Mr. S. Smith (workers' representative)—were sworn in before the full Court in Sydney on the 29th of April 1902. The State Attorney-General (Mr. B. R. Wise) took the opportunity to congratulate the members of the Court on their appointment, and expressed the hope that the Court would conduce to industrial peace in the community. Mr. Justice Cohen, in responding, stated that he hoped that the Court would maintain the course of justice unimpaired, and fulfil its high functions as a British court of justice. Part of the oath administered was—

I do swear that I will not disclose to any person whatsoever any matters or evidence relating to any trade secret or to the profits or the financial position of any witness or party which shall come to my knowledge as a member of such Court.

Generally the Court has power to hear any matter in private, and, as in New Zealand, may receive evidence whether technically legal or not, is specifically granted the power to fix a minimum wage, and may order any employer to give preference to unionists over non-unionists, "other things being equal," when men from both classes offer their labour at the same time. There is the New Zealand power in the Court—when an industrial dispute involves technical questions—to appoint two assessors to sit with it, selecting them, one from the side of capital, the other from labour. Any technical matter may also be referred specially to an expert, whose report shall be accepted as evidence.

Perhaps the Act's most interesting feature is the "common rule." This is an effort to improve upon the tentative New Zealand method of extending the regulative scope of their Court decisions, so that, instead of merely binding specific employers, they are made rules virtually dealing with whole industries. The New Zealand plan has been to proceed through district after district, citing all the employers in the industry under review in each; then, after an award has been given, any one subsequently entering the trade had to be cited too, unless he was prepared to comply with the award voluntarily. In 1900 the scope of awards was extended so as to bind, without further proceedings, any one who during their currency should enter any industry regulated by them. Power was also given the Court to extend an award so as to include any employer or union not a party thereto, but engaged in the same industry as that to which the award applied. A moment's reflection will show that, under these successive extensions of its power, the Court was enabled to lay down rules affecting a whole industry. In effect

this has been done, though the Court has taken province after province in the gradual fashion made almost necessary by the sharply-defined subdivisions of the colony. Moreover, in New Zealand there has been a strong prejudice against regulating the businesses of employers who have not been at least invited to attend the hearing of the case affecting them.

In New South Wales, however, the Court is to have power to treat any award as a test case, and to apply the award therein to the whole industry throughout the colony. It may, so to speak, give an award *in rem*, instead of *in personam*, as is done in New Zealand, where employers must be named specifically. It may declare that any custom, regulation, agreement, condition, or dealing whatsoever in relation to any industrial matter shall be a common rule of the industry. It may also limit the area within which the rule shall be operative, and may allow exceptions to it. As in practice it will probably both limit areas and allow a good many exceptions, the net result will probably be very similar to that secured under the New Zealand plan. I think this more especially likely, because, under clause 38 of Mr. Wise's Act, any person affected by an award may apply to the Court to be relieved of any obligation thereunder. On paper the New South Wales method looks to be a short cut to the goal which in New Zealand has to be reached more slowly and tediously. In practice we must wait to see to what extent the Court in New South Wales has to fix limitations, allow exceptions, and deal with protests of individuals and localities. In any case, Mr. Wise's common rule is an experiment to be watched. If successful, it may tempt the New Zealanders to simplify a portion of their law, and lead the Victorians to

develop their good but imperfect system of wages boards into something more like the industrial arbitration of the other two colonies.

In New South Wales, as in New Zealand, the highest penalty that may be inflicted on an employer or union for breach of an award is £500. Small as such a sum may seem, it has never been found needful to impose any penalty nearly as heavy to enforce the awards of the New Zealand Court. A peculiarity of Mr. Wise's law is that it does not follow the example of the other in limiting the currency of awards to three years. On the face of it, they may be made for an indefinite term. When, however, we turn to the sections of the law dealing with industrial agreements—that is to say, written contracts made between industrial unions and employers and registered under the Act—we find that the New Zealand method has been exactly copied. Agreements may be entered into for any time not exceeding three years, and thereafter are to remain binding until one month's notice in writing is given by a party wishing to vary or end them. It is plain, then, that the framer of the New South Wales law contemplates awards which take the shape of an order of the Court directing both sides in a dispute to enter into an industrial agreement. This is commonly done in New Zealand, where it has been found a convenient method of showing disputants where they are.

Four words in clause 26 of the Wise law may lead to interesting incidents. In addition to the jurisdiction given to the Court to hear industrial disputes referred to it in pursuance of the Act,—that is, I presume, by one of the parties to the quarrel,—it may determine "any industrial matter referred to it by an industrial

union *or by the registrar.*" One would have expected to read the words "or by an employer." Passing from that point, I shall be curious to note what use will be made of this power given to the officer of the Arbitration Court—an officer who will be departmentally a subordinate of the Attorney-General—to initiate proceedings under the Act. The clause looks like a design to compromise between the New Zealand plan of leaving the initiative entirely to one or other disputant, and the Victorian plan of looking to the wages boards, factory inspectors, and the chief secretary to set the machinery in motion—indeed, to do everything. Mr. Wise has said frankly that he does not see why the Arbitration Court should not, through its registrar, intervene in a dispute, though none of the parties thereto care to invoke it. He thinks combatants who are bringing an industry to a dead stop should be regarded as brawlers in a street who check traffic with their quarrelling: they should be made to move on. This is good logic. I do not, however, envy the Judge who has to arbitrate between two sets of embittered disputants, neither of which desires his intervention. And I await with curiosity the first attempt to use this power. Meanwhile the experience of New South Wales supplies an example of the opposite difficulty. No sooner did the Arbitration Court in Sydney open its doors than there was a rush of applicants to set down cases, and the first protest from its President was against a haste which seemed likely to lead to a block of business.

(*e*) *Why Arbitration may succeed*

It would be silly to claim that the revival of prosperity in New Zealand after 1895 was mainly due to the

Arbitration Act. It is perfectly fair, however, to claim that it has saved employers from strikes and dislocation of trade, and increased the spending power of labour. It has therefore had its share in bringing about the colony's wellbeing. The law has neither broken down, become detestable, nor been in the faintest degree an obstacle to the revival of industry amongst the people amongst whom it is in constant use. That is something. English writers have, indeed, asserted that its operation has been confined to the manufactures of the colony, and that these are an insignificant portion of the New Zealand industry. In the first place, however, the manufactures and technical industries of the colony are not relatively insignificant—quite the contrary. The output of the factories and workshops of New Zealand amounts in value to some seventeen millions sterling a year. The total export trade of the colony for the year 1900, though showing a very agreeable increase, only amounted to £13,256,000. In other words, the output of the factories and workshops is above that of the exports. But the working of the Arbitration Act is not confined to the factories and workshops: it may be applied wherever labour is organised. Mining and shearing come within its scope, and several of the most important decisions under it have related to the work of coal and gold mines. Furthermore, the Act has always applied to shipping and seamen, to the builders, painters, carpenters, and butchers. Finally, in 1900 its scope was widened to include railway men, shopmen, clerks, farm labourers, and almost all wage and salary earners.

The same writers confidently predict that it cannot continue to command obedience. They say that so soon as it is put to the strain of public passion and excitement

it must break down through the refusal of either labour or capital to obey it. Or, should there be no such revolt of industry, the Act may remain in operation for some time, but at the cost of a fearful sacrifice in the shape of the strangling of industrial enterprise by State restriction. Without writing of the future of the Act in any too confident strain, let me deal in order with a few of the objections most commonly put forward against it, and upon which most of the prophecies of its failure are based.

It is urged, and sometimes by writers and speakers of real knowledge and experience of life, that a coercive Act is not only dangerous and barbarous, but is not wanted, for two reasons. The first of these is that private and unofficial conciliation and arbitration, of which we have seen so many examples in England, is not only more desirable, but is actually doing the work which the colonies entrust to State tribunals. The second reason advanced is, that if the State is to interfere at all in these conflicts, it is wiser to do so by optional laws—machinery of which the combatants may avail themselves or not as they please. It is contended that the English Conciliation Act and the Massachusetts and other Acts in the United States supply striking examples of success. In a previous chapter I have tried to sketch the universal failure of private conciliation and optional statutes. I need not go over that ground again. It is the state of things there summarised which has forced New Zealanders and Australians to believe that their choice lies between compulsion and warfare, between authority and anarchy.

The objectors to compulsion tell us that compulsion is tyrannical inasmuch as it prevents private citizens settling their own business in their own way, and

obliges them to conduct it on lines laid down by a third party—the State. The reply to this is that the right of private persons to manage their own business without State interference ceases upon their conduct becoming an injustice to others or an inconvenience to the nation. The disputants in labour conflicts do more than injure one another. They do direct harm to persons engaged in allied industries, and to tradespeople and others whose interests are involved in a labour war, but who have no voice therein. In the third place, they indirectly injure the whole community. There are three parties interested in every industry—(1) the masters, (2) the men, (3) the community. Of these the last always desires arbitration in labour disputes. When, therefore, one of the other two also wishes it, the case for insisting upon it becomes very strong.

Next, we are told that a compulsory Act is impotent because it cannot force an employer to carry on a business if he refuses to do so, except on his own terms. Nor can it oblige a thousand men to work, if they refuse to do so. Certainly not. But how many employers will give up business rather than accept an honest award upon some dispute, or some detail of a dispute? Employers are not given to ruining themselves merely because they may not like the decision of an impartial tribunal. An employer who has the choice between accepting a legal decision arrived at after painstaking inquiry, and being taken into Court and fined, will almost always accept the decision. In a very few cases he may run the risk of being fined once, but he will not lay himself open to a second penalty. That is the New Zealand experience.

"How can the Act prevent industrial war when the award of the Court is intolerable to one side or the

other?" asked the *Times* in January 1899. To begin with, Why assume that the awards of a competent tribunal will be "intolerable" to one side or the other? It is likely enough—nay, certain—that all awards may be disagreeable to somebody. But "intolerable" is a word which presupposes that awards are likely to be made which will involve one side or the other in ruin or drive it to desperation. When its friends were endeavouring to get the New Zealand Act passed, the question used repeatedly to be put, and the framer's first answer was that he did not believe there was any serious reason to anticipate awards of that nature. He asked the Act's opponents to assume that the arbitration tribunal would not be composed of arbitrary fools, but of experienced men anxious to find a reasonable *modus vivendi*. He believed that if the awards erred at all it would be on the side of a laudable desire not to drive either side to extremities. The years of practical working have amply confirmed this belief. Study the complaints of the Act's opponents, and it will be seen that about the worst they can allege is that the New Zealand awards show too great a tendency to split the difference. Similar complaints are made against most other kinds of arbitration in other countries. It is true that industrial belligerents in this or that country frequently declare this or that award of a voluntary arbitrator "intolerable," and are ready to fight rather than accept it. When, however, a refusal to do so involves them in a conflict with the laws of the land, exposes them to pains and penalties, and brings public condemnation on their heads, belligerents are not nearly so ready to fancy that anything they do not like is "intolerable." They discover reasons why it is better to grin and bear it.

On the other hand, it has been flatly declared that the Court cannot coerce trade unions. Vivid pictures have been painted of the tragic absurdity of endeavouring to collect fines from trade unionists by distraining on the goods of poor workmen whose union is without funds, and who are themselves penniless. The answer to that is, that poverty-stricken unions, composed of penniless workers, are only too thankful to accept the decision of a State tribunal.

They cannot strike against a powerful employer; much less can they hope to starve out a court of arbitration. Its decision may not altogether please them, but it is all they are likely to get. The Arbitration Court, therefore, is as potent to deal with trade unions as with employers. Wealthy unions it can fine. Penniless unions are helpless to fight it. Finally, at its back is the mighty force of public opinion, which is sick of labour wars and determined that the experiment of judicial adjustment shall have a full and fair trial.

In countries like England and the United States there is an object in a strike or lock-out. It is a suspension of labour or business, made in the belief that it is but temporary, and that it will starve the opposing side into submission. But there is no object in a strike or lock-out in New Zealand, because you cannot starve the Arbitration Court into submission. If an employer were to shut up his factory there rather than obey the Court, he would have to retire from business altogether. If men left off labour they would have to change their occupation, because they could only resume it under the conditions laid down by the Court. Moreover, public opinion would utterly condemn them.

Most persons who conceive of a Court of Arbitration intervening in a labour quarrel, imagine the occurrence as taking place after the trouble has grown acute—after, indeed, the men have either been called or locked out. But the strength of the system is that it anticipates the acute stage. Points in dispute are settled from time to time as they arise. Instead of a union striking, its secretary files a statement of claim in the nearest conciliation office. Thus the passions of both sides are not inflamed or aroused before intervention begins. The moral, in short, of the Act is the very simple adage that prevention is better than cure.

It may be taken for granted, then, that an employer will neither pay a succession of fines with costs nor ruin himself wantonly. As for the men, the Court can fine their union and fine each of them. All the trade unions have gradually registered under the Act, and, by so doing, bound themselves in honour to respect it. No competent observer fears a grand labour revolt against the law. It may be said at once that the success of such a law depends upon its deliberate acceptance by public good sense; that to attempt to force such a statute upon an unwilling people would be foredoomed to disaster; and that no compulsory arbitration law could work for a month in a democratic and civilised community unless opinion there had deliberately declared for a thorough trial of it in labour disputes. It will be urged, doubtless, that until some body of men has doggedly, or perhaps violently, refused to obey a compulsory award and been forced to the knees by legal process, the strength of the Act will not have been thoroughly tested. Might it not, however, be urged that the true strength of the Act is being shown by the absence of such incident? Does not the growth

of a habit of peaceful acceptance of decisions hold out the best hope of ultimate success for the system?

It is argued, again, that the Act is capricious and arbitrary, inasmuch as there can be no economic or scientific basis for the awards of the arbitrators. Those who argue thus give away the whole case for those systems of private, voluntary conciliation and optional State arbitration which they as a rule ardently support. The umpire in voluntary references can have no basis for his award which the umpire in compulsory reference does not have. If the absence of an exact basis is fatal to the one it must be conclusive against the other. But need it be fatal? The business of a labour arbitrator is not to please orthodox professors of economy, but to find a reasonable *modus vivendi* for two disputants who are unable to find it for themselves. The odds are heavily in favour of the successful discovery of fair working conditions by any impartial, intelligent, and honourable referee. It is, at least, far likelier that he will find them than that a mere trial of strength between two angry sides will do so. Do labour conflicts supply a scientific basis?

It is, however, urged that the State tribunals may not be honourable or intelligent, and that, unless they are, their awards may be ruinous and intolerable. The reply is, Why assume what is not yet the case and need never be the case? Every law depends for its success upon its administrators. The colonial Arbitration Acts are carefully framed to ensure courts having the best help from expert knowledge and skill. Should, indeed, these courts become dishonourable and corrupt, the Acts will surely fail. But they will not become so unless the whole democracy goes rotten, of which at present there is no sign.

But granting compulsion to work well in the case of highly organised industries where labour is wholly or chiefly enrolled in trade unions, does it not leave out the unorganised trades where male and female workers have been unable to combine in unions? It is just these industries where sweating is most rife. "Yet," say critics, "it is just here, where arbitration is most wanted, that it does not apply." Quite the contrary. It protects workers in sweated industries against being frightened out of combination by the dread of dismissal. They may join unions as soon as they please, and the tribunals will bear them harmless. Nor need they fear being called upon to strike in order to get concessions from their employers. When they want to have a revision of the unbearable conditions of their industry, they have but to file a statement of claim in the office of the nearest conciliation board, and they are at once in as good a position as the strongest, oldest, and richest trade union. The special advantage of such machinery to women workers should be plain. English trade union critics have seen danger in that part of the statute which makes trade unions, when registered as industrial unions, corporate bodies with the right to sue and be sued. They fear lest resolute and wealthy employers may harass these unions by costly litigation in the ordinary law courts. But when strikes and lock-outs are abolished the main reasons for such litigation cease to exist.

To an employer the chief advantage of Industrial Arbitration, with its system of periodic awards, is that, for the time, he can make his calculations on an ascertained basis. He knows where he is. The Act gives him peace. True, it is peace with conditions; but then all his local trade rivals and competitors must obey the same con-

ditions. The fair-minded employer can no longer be undercut by the sweater; from that meanest form of competition he is secure; all employers have to be equally fair. To sum up: After six years it can truthfully be claimed that so far the New Zealand Act is doing more than its framer hoped, or than any one else expected. It has steered its course without accident between the Scylla of sweeping and intolerable awards and the Charybdis of technical subtlety and legal delay. It has been lucky in a friendly legislature, capable presidents of its Court, and general desire on the part of the public to give it a fair trial. I propose to deny myself the luxury of speculating on the possibility of applying its principles to older countries. It is tempting enough just now, for these are days when the labour problem is not only in the air but on the earth, and when the battles of capital and labour almost hold their own with the struggles of sport, and with national wars, as items of daily news. But the shoemaker should stick to his last, and this is not the place for a sermon upon the economic wants of old and great communities. I will merely say that the very nature of a compulsory Act demands, as a condition precedent to it, not only that reformers in a community shall desire to see it made trial of, but that public opinion shall have been educated up to wish for it too. Either labour or capital must be ready to invoke it. Many employers in most countries may be expected to object—at any rate at the outset—to any such experiment. A few employers are prepared to consider it already, but the employer more commonly met with submits to interference when he must, and not otherwise. Compulsory arbitration, therefore, is likely to have to wait until the public catches at it as a relief, and until trade unionists are

sick of industrial warfare. Nevertheless, it is a righteous principle, and some such system as those in force in New South Wales, New Zealand, and Western Australia, or as provided by the Victorian wages boards, is probably the best alternative to the industrial anarchy which England, Europe, and America still shrink from regulating. Industry cannot be regulated by statutes and inspectors alone. Something much better informed, much more elastic, with much more give-and-take about it, is required.

Let me once more emphasise that if the New South Wales and West Australian Acts succeed, and the New Zealand Act continues to succeed, they will, as a matter of course, have far deeper and wider effects on industry than the mere substitution of arbitration for industrial war. Their success will mean State regulation. Such minute State interference seems unthinkable to many Englishmen. But there is more than one kind of State interference, and fair tribunals are, at any rate, removed from the influence of those "emotional politicians with sensational notions about property," who are painted by commercial alarmists as industrial highwaymen eager to strip the capitalist of his last shilling.

It is urged in England by those who dislike the notion of compulsory arbitration that the New Zealand Act has not been at work long enough to serve as a thorough test of the compulsory principle. This, no doubt, is an objection of weight, though every month diminishes its weight. Then there is the argument that an experiment hitherto only tried in times of prosperity can have no value as an index of what might happen in lean years. There is much in this, though scarcely as much as is fancied by those who use it as though it were the last word on the

subject. Passing from objections, it is safe to say that the experiment seems on the way to prove several useful points. First, it shows that trade unionists may be persuaded by the logic of experience to prefer arbitration to conflict, and that their unions may grow and prosper in consequence. Next, that the compulsory decisions of a State tribunal may be quite as just and moderate as those of a private conciliation board, and that obedience to them need not mean ruin to an employer, or cruel hardship to workpeople. Next, the working of the Act has not strangled industry or fettered enterprise; trade and business have steadily improved under it. Lastly, instead of it being found impossible to assert the Arbitration Court's authority, there is no serious difficulty in enforcing its decisions; indeed, the enforcement of awards, which is assumed by English *a priori* critics to be out of the question, has, so far, been found in practice to be by no means the most troublesome part of the work of industrial arbitration.

(*f*) *Arbitration and the Wage Board System compared*

Though not yet twelve months old, Mr. Wise's Act has already ceased to be the newest arbitration law in the colonies. The West Australians, finding their Act of 1900 defective, decided not to amend but to repeal it. Accordingly, in February 1902, they displaced it with a new enactment which followed more closely the New Zealand model. It is noteworthy that, despite the example of New South Wales, this statute makes provision for boards of conciliation.

There are now in the Commonwealth and New

Zealand five laws at work, under which wages and the conditions of labour may be regulated by the decision of boards or courts. New South Wales, New Zealand, and Western Australia are making trial of industrial arbitration. The Victorian system of wages boards is in use in Melbourne and Adelaide. The student, therefore, may now watch and compare five experiments. At the time of writing this the Australian Arbitration Acts are too young to furnish much matter. Much the same may be said of wages boards in South Australia. The New Zealand and Victorian laws, however, have been fully employed, the one for nearly seven, the other for about five years. These two, therefore, already furnish results which are material for study and comparison.

Just now the Victorian trade unions seem to wish to substitute industrial arbitration for their own system. On 27th June 1902 a representative deputation of them, fifty strong, waited on Mr. Deakin, Acting Federal Premier, to ask that the Federal Ministry should pass an industrial arbitration law for the whole Commonwealth. Mr. Spence, M.H.R., representing the Australian Workers' Union, declared that the example of New Zealand had been sufficient to convince New South Wales and Western Australia that compulsory arbitration laws were desirable. Even if all the States had courts of that kind, there would still be a need for a Federal Court. Many miners were found all over the Commonwealth. So far as shearers and seamen were concerned, one court could settle disputes for the whole of Australia. Mr. Deakin said that under the constitution a Federal law could only deal with labour disputes extending into two or more States. Such a law he and his colleagues were about to propose. They could not

deal with purely local disputes unless the State Governments would delegate authority to them.

The deputation, therefore, went on to Mr. Irvine, the premier of the State of Victoria, and besought him to have an arbitration law enacted. Mr. Irvine asked them plainly whether they desired that industrial arbitration should supersede the system in force under the Shops and Factories Act. They explained that they did. The premier gave them a guarded answer, hinting that it might be possible to use both systems. He was obviously unprepared to abolish the existing regulative law.

To English economists and students with a knowledge of industrial life in Europe there are, perhaps, no colonial experiments which seem at once so interesting and so hazardous as the attempts in Victoria and New Zealand to regulate wages and supersede individual bargaining between employer and employed. Beside the strangeness and complexities of such tasks, old age pensions are thought a simple piece of finance, State money-lending orthodox, liquor reform easy, and the future of women's suffrage a thing plain for man to foresee. On different lines the two colonies named have been for some years striving to administer statutes which are in truth fair labour laws. Odd as it may seem, they have not failed. Starting quite apart and approaching their undertaking on different lines, they are in many respects doing the same work. The primary aim of the Victorians was to regulate certain sweated trades; that of New Zealanders to put an end to pitched battles between masters and unions. But, inasmuch as two-thirds of the conflicts of labour and capital turn on the rates of wages, the Victorian system, where it is applied, does in practice make strikes and lock-outs

much less likely to happen; while that of New Zealand has regulated, sometimes minutely, most of the colony's industries. Both laws have been expanded by their Parliaments, and have become less unlike than they were when first passed. At the outset, the Victorian Act affected but six trades, and those only in urban districts; it may now by permission of either House of Parliament be extended to other industries, and this is rapidly being done. Still, its scope is not yet as wide as that of the New Zealand law, and its regulating power is confined to wages and piecework prices, hours of work, and the employment of apprentices and improvers. Until all the many causes of labour warfare are brought under the purview of the Victorian boards, their functions must remain narrower than those of the New Zealand tribunals, and the risk of labour battles greater under their system. Moreover, under their system of separate trade boards, each industry is dealt with as though it had no relation to any other. The New Zealand tribunals, the Court especially, have to handle many trades, and learn to consider their relations one with another.

In October 1901 a single strike in Melbourne caused more workmen to go out than the total number concerned in all the little battles of unorganised labour in the last six years in New Zealand. Strikes and lock-outs are not illegal in Victoria, and while the employer may not pay his hands less than the minimum wage, there is nothing to prevent the workmen striking for more. In New Zealand the trade unionist may ask for more than the rate awarded by an arbitration tribunal; he may not strike for it, but must wait till the award expires.

The difficulty caused by sharply-defined geographical

divisions has not had to be faced in Victoria, which is the most compact and centralised of colonies. In New Zealand, a long string of settlements scattered up and down an archipelago 1100 miles from end to end, and cut off from each other by mountains and sea channels, have become the cradles of local conditions and customs which law-makers have had to reckon with. Hence it comes that, while in both colonies powers of laying down labour conditions are given to boards half of masters, half of men, with a disinterested chairman, the scope of the boards' operations differs. In Victoria they are trade boards dealing with industries centralised in Melbourne; in New Zealand they are district boards dealing with all trade disputes arising in their territory, but without jurisdiction outside it. The New Zealand law, it is true, allows special trade boards to be set up, but no attempt has been made to use this part of it. The decisions, even of the Arbitration Court, under the New Zealand law, for the first five years after it was enacted, could only have force in the districts in which they were given. Only after five years did the legislature venture to give the Court of Arbitration power to make an award apply to a trade everywhere throughout the colony, and even then the permission was hedged about with safeguards. It was, however, given; and now, also, awards must be obeyed by non-union as well as union work-people in the trades they apply to. In practice the New Zealand tribunals now regulate trades and not firms of traders merely. In these respects—as in the emphasis their statute now lays on the Arbitration Court's authority to fix a minimum wage and in the greater power they now give their conciliation boards—the New Zealanders have so worked and amended their system as to cover

the same ground as the wages boards and a great deal more. The Victorian law takes no special account of labour unions; that of New Zealand did not until lately concern itself with any other class of labour.

The election of representatives on the labour tribunals in New Zealand is entirely in the hands of industrial unions—a great improvement on the cumbrous Victorian plan of compiling electoral rolls of employers and workmen every two years. The New Zealand conciliators and arbitrators also have a three years' term of office, which, short as it is, is better than the two years' life of the wages boards.

The Australian law has one verbal advantage. No steps can be taken in New Zealand to have an industry regulated, or to have any alteration made in existing regulations, without declaring what is legally termed a "dispute." In Victoria the wages boards go to work in a humdrum, matter-of-fact way to lay down or change a trade's conditions. It is their business; frankly, they are regulative bodies, and their action is regarded very much as a matter of course. Their doings are not reported at great length in the newspapers, and their most imaginative critics do not call every discussion of a point before them an eruption of labour war. In New Zealand, as already pointed out, critics persistently confuse regulation with conflict; all the capital possible has been made out of the legal use of the word "disputes" to denote the cases referred to arbitration; and the conciliation boards cannot be asked to lift a finger without some one or other lamenting that the colony's industries are in a state of seething unrest. Then much more public notice has been taken there than in Victoria of the hearing of disputed points. The proceedings of boards and the Court were,

at first especially, reported fully in the newspapers, and, after a time, readers who had no personal concern in them found them dull and tiresome. Admittedly, too, the frequent appeals to the Arbitration Court and the consequent rehearing of nearly two-thirds of the cases have wearied onlookers, in addition to irritating the respondents involved. On the other hand, the New Zealand tribunals have shown patience, nerve, and a high sense of equity. Their angriest critics hardly dare assert that more than one of their many scores of awards has seriously injured an industry, or that any have been intolerably unjust to master or man. Much of this caution and practical success has been due to the much-criticised double system of tribunals, with the right of appeal from lower to higher. Much more is due to another peculiarity of the New Zealand Act—that which obliges one of the parties to a "dispute" to take the initiative. The basis of the law is unionism—the organisation if possible of both sides, at any rate of one side. Without that the law cannot be set in motion; and if a case is brought by work-people it must come from a union. A case, therefore, must be carefully prepared and evidence got together to support it, and a grave responsibility lies with the plaintiffs. This has helped the tribunals by ensuring that all obtainable information is procured and laid before them, and it also promotes peaceable organisation amongst the work-people, who have the sobering influence of corporate responsibility. The number and strength of the organised work-people have trebled since 1894, almost entirely through the influence of the Arbitration Act. And in quantity, as in quality, the actual work done under the law up to the end of 1901 much exceeds the output of the

Victorian system. In Victoria both initiative and enforcement rest with the Minister of Labour, his factory officials, and the boards, and there is no court of appeal. The only appeal from the boards is to the Government. In case of a faulty "declaration" the aggrieved parties try to get Government to suspend it, and to oblige the board which drew it up to reconsider and amend it. In effect several of the earlier Victorian "determinations" were faulty, and caused much friction, some hardship, and long delays which sweated workers found it hard to bear with patience. In New Zealand the Government has virtually nothing to do with the awards of the tribunals—a most excellent thing.

In Melbourne, the Chief Secretary is invoked again and again. He fills up vacancies on boards, extends the area to which declarations apply, or overrules the boards altogether. We are confronted with such paragraphs as the following, cut from an Australian newspaper:—

MELBOURNE, *Friday.*

The Minister of Labour, Mr. Peacock, has declined to gazette the recent decision of the Printers' Wages Board, because it has not fixed general rates for the trade. He cannot understand why compositors, for instance, should be paid £4 : 4s. in a metropolitan daily newspaper office and £2 : 12s. in a jobbing office. He has requested the board to make its determination of a general character, without fixing a special rate for newspaper offices.

Moreover, if evasion or defiance of the law is alleged in Victoria, the factory officials have to cope with it: in New Zealand the unions must take up the matter themselves. Mistakes and faults, however, should not blind us to the good work done in Melbourne. Though less elastic and more bureaucratic than the New Zealand scheme, the Victorian appeals more directly to humanitarians who want machinery for regulating the worst

sweated trades, where women and children are ground down helplessly, but who do not want to interfere with the stronger, fighting trade unions of men. Those, on the other hand, who, whilst desiring a remedy for sweating, desire also a substitute for strike and lock-out, and hold that these latter are disastrous anachronisms, may, it is possible, find in the New Zealand law a wide and elastic system capable in skilful hands of being developed to meet the new requirements of our times. To sum up, the New Zealand system encourages organisation, has a simpler electoral machinery, minimises Government interference, and has produced a regulative system marked by carefulness and good sense. It gives its Arbitration Court a prestige and wide authority not given to the Victorian tribunals. Under its industrial agreements many arrangements are quietly and spontaneously made. It draws no line between a few labour questions which it will regulate, and a number of which it will take no cognisance. It obliges one side or the other to take the responsibility of initiative, and to make out a case for interference. On the other hand, the Victorian law had to deal with trades in a worse plight than any industries in New Zealand. Moreover, the New Zealand tribunals have worked, for the most part, in prosperous years. While this has swelled the demands of the unions, it has enabled the regulated industries to bear concessions. In Melbourne the wages boards have had dull times to face, and that makes the good work done by them in stamping out sweating all the more creditable.

Shops and Shopping Laws

In the colonies statutes to regulate retail shops came later than factory laws. Factory Acts began to appear

as early as 1873. Only one shop law worth mentioning was passed before 1892. There were reasons, political and social, which caused more hesitation in the second case than in the first.

Politically, factory-owners count for very much less in the colonies than those they employ; their numbers are, of course, very small in proportion, and their money has much less regard paid to it at the Antipodes than in England. At the other end of the earth there is no costly and powerful party machine to be kept up by the subscriptions of the rich. Nor do the merchants, squatters, and small farmers in the colonies sympathise at all warmly with the factory-owner, from whom they are often divided by the line of cleavage which separates free traders from protectionists. When fighting in unison with his workmen the colonial manufacturer is a power—witness the customs tariffs. But when he is at odds with his people he is not a man of very many political friends.

The shopkeepers are in a different case. Were it possible to regulate the hours of large retail shops without interfering with small tradesmen, the task would be comparatively simple. But the wit of man cannot devise a scheme with any show of equity in it which will be effectual to restrict the big establishments and yet leave the little shops untouched. If it is right that shops in which many hands are employed should have their hours of business lessened, then the same reasoning applies to places where there are but few hands—to all shops, in short, where any paid labour is engaged. Hours and conditions which are unjust in the case of paid labour are equally unfair to unpaid labour, even that of members of the shop-owner's family. Finally, if shops in which all the

work is done by the owner or his wife are alone exempted, then the injustice of leaving them open while shutting up their trade competitors is too manifest for the distinction to be preserved for any length of time. Public opinion, when once it is reconciled to shutting any shops of a class or trade, soon becomes converted to closing them all at the same hour and on the same holidays.

Then comes the difficulty. Man for man, shopkeepers may not be as prominent in a community as manufacturers. But they are far more numerous. Small and large together they equal the shop-assistants, and in some towns outnumber them. They are all adults, too, and have votes, and in some colonies their wives have votes also. So strong are they as a class that if they were solidly united against legal interference with their business it is safe to say that no shopping law would be found on the statute-books. Fortunately for the cause of the fair day's work, they are not united. Over and over again agitations for voluntary early closing have enlisted the support of the majority of them, and only been beaten by the minority. Once make plain to the average colonial shopkeeper that his business will not suffer by having to be done within reasonable hours, and he straightway becomes a friend of early closing. Well he may, for if there is an occupation where long hours are an absurdity from the point of view both of master and man, it is the shopkeeper's. It is possible to argue that by long hours of work in factories more profit may be made for the owners than by short hours. It is hardly possible to argue that the customers of shops will buy less because they have to do their buying in fifty-two hours of the week instead of in seventy. In

practice it is quickly found in the colonial towns where legal closing is enforced that the purchases of the public are not affected by the change. During the first few weeks after a closing law is applied this or that shop may lose a little custom, just as a few stray buyers may be inconvenienced and may complain—may even write to the papers wrathfully. The cases are very rare in which any shop is permanently deprived of much business.

As a general rule, there is surprisingly little shifting of business from one to another under any closing system drawn with common care. There are certain classes of shops, however, in touching which caution has to be shown and concessions made. No ruler less powerful than a Czar may meddle with the sale of newspapers. To shut up an eating-house or hotel, or stop the sale of tea and coffee and aerated waters when people are making holiday, or on Saturday afternoons, or even early in the evening, would half ruin the traders affected and grievously annoy the public. Hairdressers and photographers, too, would be unfairly hit if closed on Saturday afternoons; that very large class of their customers who are neither idle nor rich come to their shops most often on that day. To close butchers on Saturdays, or fishmongers or fruitsellers on any day, is by common consent out of the question, for reasons which have special force in hot climates. The chemist's, again, is a trade which cannot be lightly interfered with. The result is that the framer of an early closing Act is at once confronted with half a dozen classes of shopkeepers to whom he must promise special treatment, and whose exemption makes the hostile minority in the classes to be regulated more refractory than ever.

Then, when the law-maker has placated the vendors of perishable goods, the holiday traders, and the dealers in urgent necessities, he is met by the conflicting claims of city and suburb, and the diverging habits and methods of town and country. To the country settlers the grievances of the city shop-assistants used to sound like a story of unreal life in a distant land. In the home districts of the farmers, miners, shepherds, and bushmen, there were no big and busy shops with glittering front windows, behind the shows of which men are kept bustling about and women standing on their feet from morning until after dark. There were no workrooms where the air might be hot and vitiated, and the sanitary arrangements unwholesome. Youths and girls who have to serve behind the counter every day, and all day, from Monday morning until Saturday night, and who hear enviously of the cricket and football, of the picnics, the boating and cycling parties of their more fortunate fellow-workers, are not found up the country. It is a far cry from industrial life in Collins Street to business as done in a bush township. The country storekeeper is not over-much troubled by having to watch the shop vigilantly through all hours of the day and evening, in fear of having his business snapped up by some more wide-awake neighbour. His life is not one of whirling hurry. In the out-of-the-way townships of the Australian interior, or the quiet New Zealand valleys, the advent of a customer is an agreeable break in the monotony of store life. The storekeeper, who probably has a pipe in his mouth and is in his shirt-sleeves, greets the visitor cheerfully and serves him leisurely; they are more than likely to be old acquaintances, and as articles are handed over and parcels made up, the pair ex-

change the news of the country-side. When it is the farmer's wife who drives up to the store to make household purchases, and the storekeeper's wife or daughter who attends to her, the gossip is not shorter, though it does not end, as it often does with the men, in a stroll to the bar-room of the neighbouring public-house. To apply elaborate early closing laws to rough-and-ready methods and free-and-easy manners of this primitive kind would be too ridiculous. At the same time, something has had to be done even with country shops. All rural districts are not equally rough and thinly peopled; all townships are not sleepy hollows. There are many stages of transition from the city "emporium" of several storeys to the long, low, shingle-roofed store with its broad verandah and miscellaneous contents, and its mingled odours of cheese, American apples, moleskins, bacon, brown sugar, and boots. Where was the line to be drawn?

To make a law for urban traders and no law for rural, meant that shops a few yards outside an artificial boundary might remain open whilst their competitors just inside it had to be closed. The framers of shopping laws had to take into account the widely differing conditions of urban, suburban, and country life, as well as the claims of certain classes of shopkeepers to a measure of exemption, greater or less. They were everywhere appealed to in the name of small and struggling tradesmen not to harass the humbler class of retailer whilst endeavouring to protect the servants of the larger. They were warned against interfering with the convenience of the public—selfish, all-powerful, and very touchy where its daily habits are concerned. They were coldly advised not to do their own political party a mischief. As against all

these deterrents they had, however, one strong argument. Retail shops are not wealth-producers. No nation is the richer because an insane competition leads its shopkeepers to make prisoners of themselves and slaves of their servants. No community is made poorer because it exercises just the amount of self-restraint involved in finishing its domestic buying an hour or two before bed-time. The utmost the public is asked to do is to make an occasional and trifling sacrifice of convenience. Nevertheless, for the reasons before given, the colonial law-makers who have set about the regulation of shopping have had a thorny path to tread. Party politics at the Antipodes are in spirit very much what they are in older countries; the politician who has tackled a difficult job must expect that the enemy will make all that can be made out of his difficulties; and that, when he endeavours to deal with the common, small, and familiar transactions of everyday life, the details of his proposals will leave ample openings for the attacks of sarcasm and humour. The public loves to see social reformers laughed at, even when its conscience bids it support reform; it may obey conscience, but it owes a grudge to the men who have awakened it.

Shopping laws in the colonies have been resorted to only after the failure of many attempts to secure early closing by voluntary agreements. For the abuses which in the larger Australian cities converted public opinion to the need for restricting laws, the reader is referred to the official blue-books on factories and shops in Victoria, New South Wales, Queensland, and South Australia. Even in New Zealand, where there are no large cities, shop hours, though seldom barbarously long, were often longer than there was any need for; and everywhere

shop-assistants felt resentfully that they were almost the only class which had to go without the weekly half-holiday.

The first shopping law calling for a sketch in any detail is that of New Zealand. This is partly because, with the exception of a mild and rather ineffectual section of the Victorian Factories Act of 1885, it was the earliest attempt to deal with the question. It was passed in compartments, after a long and interesting tussle lasting through the five years 1891-95. New Zealand, the most decentralised of the colonies, might hardly have been expected to be the first to move in such a direction; and, indeed, it cost more trouble and friction to pass the Shops and Shop-Assistants' Act there than to pass any of the other dozen or so of labour statutes which were its contemporaries. The party opposed to these measures picked it out as the most promising battle-ground, and it was not until after an infinite amount of wrangling spread over five sessions that the substance of the Bill was at last allowed to be enacted. In its incomplete form it caused much complaining and many lawsuits in 1894 and 1895, but after the Upper House allowed it to be made fairly complete in the latter year, its course has run very smoothly. Indeed, the opposition to it was from the first mainly political.

The following are its chief points. All shops are to be kept clean and ventilated. All shop-assistants must be allowed an hour for their mid-day meal; otherwise there is no limit to the hours during which males of more than eighteen may serve in shops. Females and boys under eighteen, however, are limited to fifty-two hours a week and to nine and a half in any one day, exclusive of meal-times. As an hour is given up to

the mid-day meal, this in practice means that in shops which open at 8 a.m. the women and boys must quit work not later than 6.30 p.m. Overtime is allowed on forty days a year and for not more than three hours daily. The New Zealand law is not ostensibly an Early Closing Act, though by the limit placed on the working hours of women and boys it indirectly leads to early closing. Its first object was to obtain a weekly half-holiday for as many shopkeepers and shop-hands as possible. To this end the Act provides that shops generally in cities, boroughs, and town districts[1] are to be closed at 1 p.m. on the afternoon of one week-day in each week. With certain exceptions, all shops must close on the same day. In weeks when there is a public holiday the statutory half-holiday is waived. Each locality must choose the day in the week which is to be its legal half-holiday. The choice must be made by the local council every January, and must not be altered during the year. Where districts are contiguous or nearly so, delegates from the local authorities meet together and appoint a common half-holiday.

In practice Saturday is hardly ever selected. Out of 105 districts only two chose it for the year 1901. It is market-day, and the rural interest is too strong in New Zealand for farmers' habits to be interfered with. All that can be done is to give all shopkeepers the right of closing on Saturday instead of the day chosen by the town council. Some shopkeepers do this, but not many. Factory-owners who are also shopkeepers may close their shops on the day chosen for the factory half-holiday instead of the shops half-holiday where the two

[1] "Town districts" are sparsely-peopled suburbs or villages too small to be ranked as boroughs.

fall on different days. It is also provided that where the shops holiday is Saturday afternoon, butchers, barbers, and photographers may choose some other day and close on that. In effect the local councils quietly avoid the various difficulties and complications which have to be considered where Saturday is chosen by almost always choosing Wednesday or Thursday. These authorities have power to change the factory holiday so as to make it the same day as that for shops. They do not interfere with it, however. The factory hands take their half-holiday on Saturday, shopkeepers and their assistants on Wednesday or Thursday. Chemists', fruiterers', and confectioners' shops, railway bookstalls, hotels and restaurants in towns, and all shops in the country, are exempted from the closing law. It was thought enough to require that all assistants employed in these should have a half-holiday on any day convenient to the employer. The Prohibition party in the colony tried very hard to get hotel bars closed like ordinary shops, but were beaten.

Proper seats must be provided for shop-women, who must be allowed to use them at reasonable intervals. No shopkeeper may directly or indirectly prohibit their use; or employ any woman so continuously as to prevent her from using them; or dismiss her or reduce her wages for sitting down unless he can prove that she did so for an unreasonably long time. On the whole, shop-managers now pay this part of the Act a fair amount of respect.

One section of the New Zealand Act is still unique in the colonies. Under it all banks and merchants' offices—other than shipping, tramway, and newspaper offices—must be closed at 5 p.m. as well as during the weekly half-holiday. The clerks, however, may work

overtime on ten days a month for not more than three hours daily. Each office, moreover, is given two half-yearly periods of four weeks each for making up half-yearly balances. During these the regulation is entirely suspended.

To Victoria belongs the credit of being the first colony to take any steps to forbid the useless absurdity of keeping shops open until all hours of the night. A section of the Factories and Shops Act of 1885 fixed seven o'clock in the evening on five week-days, and ten o'clock on Saturday night, as the hours for closing shops in towns generally. The usual number of classes of shops were exempted, and municipal councils were allowed to pass by-laws permitting other classes to remain open after the hours named. On the other hand, the councils were given power to close them earlier. It was left to them to fix the penalties for breaches of the closing law. The results of the whole arrangement were uneven and unsatisfactory. This will scarcely surprise any one who knows what the average colonial town councillor thought of labour laws a dozen years ago. Nothing further was done, however, for eleven years. Then, on the passing of the notable Factories and Shops Law of 1896, Mr. Peacock took in hand the question of regulating shopping. His law gave to the Governor in Council power to proclaim a weekly half-holiday in any trade on receipt of a petition from a majority of the shopkeepers engaged in it. In the same way, a majority of sellers of bread, milk, and meat could obtain a notice prohibiting the delivery of these foods in towns during one half-holiday a week or on one monthly whole holiday. The delivery of milk after noon on Sunday was forbidden. To the Central Government was also transferred the fixing of

penalties for breaking the law, and also power to extend the Shopping Acts to country districts. The working hours of shop-women and boys under sixteen were cut down to fifty-two a week as in New Zealand, and to nine a day on ordinary days, with an interval of half-an-hour for a meal after five hours. Once a week eleven hours might be worked. Seats for shop-women had to be provided—one seat for every three girls. Every shop-assistant was to have a half-holiday, on some day of the week other than Sunday, whether his master's shop was closed or not. In dealing with what are called "mixed" shops, the framer of the Act tried to be considerate to the smaller retailers. Where an occupier was accustomed to sell two kinds of goods in the same shop, and only one kind were goods of a trade subject to the closing rule, it was to be sufficient if he stopped the sale of that kind at the legal hour and removed or locked up the goods in question. He might go on selling anything else, and might keep his shop open. This permission could, of course, be of very little use to any but dealers on the humblest scale, for whose benefit, presumably, it was inserted in the Act.

Even after 1896, then, the Victorian law did not in so many words close all shops in towns and suburbs on the weekly half-holiday. Unlike the New Zealand Act, it still left the initiative to the shopkeepers, and gave municipal councils or ministers power to stand in the way. It did not simply say that shops generally were to close. On the other hand, it was an early closing law, which the New Zealand Act was not. Otherwise there was a general resemblance between the two, and, whatever their defects, they made an end of the overworking of women and boys in shops. In practice all shop-

assistants in the colony are not only entitled to a weekly half-holiday, but actually got it. In 1900 the Victorian law-makers took a long step forward. Not now content with restricting the hours of women and young boys, they applied the fifty-two hours limit to all males employed in and about shops in Melbourne and its suburbs. Carters, porters, and night watchmen were alone excepted. All shops in Melbourne, therefore, depending on hired labour are effectually compelled to close early, for no one can be kept in to conduct them. The power, however, given to shopkeepers and local councils to interfere with closing hours appears to cause uncertainty, inconvenience, and complaining.

Unexpectedly enough, the next advance was made in Western Australia. There the Early Closing Act of 1897 shuts up shops generally in eight urban districts at six o'clock on five evenings a week; on the sixth, which may be either Wednesday or Saturday, the closing hour is ten. A half-holiday, beginning at one o'clock, must be observed in every week except those in which there is a public holiday. Assistants are entitled to a clear hour for dinner, and on Saturdays to an hour for tea, and may not be kept in the shops more than three-quarters of an hour after closing time. Eleven classes of shops are exempted from closing. The list includes liquor-dealers, booksellers, undertakers, and flower-sellers. These shops, however, in common with all others, are affected by a noteworthy provision that women and persons under sixteen are not to be employed for more than forty-eight hours weekly, exclusive of meal-times. Moreover, assistants in exempted shops must have the half-holiday. Some law-makers have found stumbling-blocks in what are called "mixed" shops. With goods the sale of which is restricted to

certain hours, a shopkeeper may keep other articles for sale, such as are sold in exempted shops. Is his place to be closed or not? In Victoria, New South Wales, and New Zealand some rather painful efforts have been made to disentangle this knot. The West Australian Act purports to cut it. Where any class of goods in a shop is of a kind the sale of which is forbidden after a certain hour, the shop must be shut at that hour.

If for no other reason, this West Australian law is of interest because it appears to have supplied the root principle of what is now the chief shopping law in Australia. This, the Early Closing Act of New South Wales, passed in December 1899, divides with the Queensland law of the following year the distinction of being the most thorough-going enactment of early closing in existence. Even under this law, however, it appears that the need for different treatment of city and country districts is recognised, as, indeed, it is in all the colonies; and a very liberal interpretation is placed in New South Wales on the words "country shopping districts," for they signify all municipalities other than Greater Sydney and Newcastle. Substantial towns like Goulburn, therefore, are classed as country districts. This, however, does not mean that their shops need not close. Shops generally in "country" towns must close at 1 p.m. on one day a week; at 6 p.m. on four days a week; and at 10 p.m. on the sixth day. Districts entirely rural may be defined and brought into line by proclamation, but up to the present have not been interfered with; the Act as yet is in force only in cities, towns, and townships. In and near Sydney and Newcastle shopkeepers have the right to choose whether they will observe the half-holiday on Wednesday or

Saturday. If they choose Wednesday they must keep the following closing hours every week :—

Wednesday	1 p.m.
Monday, Tuesday, Thursday, Friday .	6 p.m.
Saturday	10 p.m.

Should the shopkeeper, on the other hand, prefer a Saturday half-holiday, the hours for the week will be these :—

Monday, Tuesday, Wednesday, Thursday.	6 p.m.
Friday	10 p.m.
Saturday	1 p.m.

Each shopkeeper on making his choice must notify the Minister in charge of the Act, and after making his choice must abide by it for at least three months. If he does not trouble himself to make or notify any choice, he is considered to have chosen the Wednesday half-holiday. Hairdressers' shops may be open until 7.30, and chemists' and flower shops until nine o'clock on the evenings when ordinary shops must close at six o'clock. Fruiterers, tobacconists, confectioners, news-agents, the keepers of hotels, restaurants and wine-shops, and undertakers' shops, may ply their businesses nightly until eleven o'clock. The apposition of undertakers to hotel and wine-shop keepers suggests that this portion of the Bill may be the work of a draughtsman of severe views on temperance. Hawkers must cease selling at the hours when shops close. Finally, overtime, instead of being allowed on forty days, as in Victoria, is cut down to three hours on twelve days in the year.

The Early Closing Act has been in force since New Year's Day 1900 in Sydney, Newcastle, and no less than 128 country municipal districts. The officials appointed

to administer it report that the half-holiday part of the law gives little or no trouble. In the country towns and villages Wednesday, the day fixed by the central authority, seemed to suit most of the shopkeepers. In the Metropolitan District also, a large majority preferred to close on Wednesday, though 566 notified their preference for Saturday. The shops whose owners chose Saturday were either connected with warehouses, factories, import houses, and wholesale businesses, or were those of booksellers, ironmongers, tailors, large drapers, or jewellers. Taken altogether the preference shown for Wednesday was as strong in New South Wales as in New Zealand. The closing of shops early in the evening was a more troublesome matter, and at first led to friction, dodging, and some grumbling from the public. This might have been expected. After a few months things settled down, and even the small suburban shopkeepers, some of whom had looked to be ruined by the change, found that it suited them well enough. It cost them rather less to work their shops for nine hours a day than for twelve; they saved, for instance, the cost of gas and fuel. They found, after a few months' disorganisation, that their customers bought just as much as before—rather more, indeed, for they ceased to go into the city of a night to stare and buy at some shop with brilliantly-lighted windows. Most shopkeepers and all assistants became warm believers in shortened hours, and by the end of the year the public quietly acquiesced. As had been predicted, there had been most difficulty in the poorest neighbourhoods. The following passage from the Report of the Department of Labour is worth quoting as an example of the initial worries besetting a change for the better in the social arrangements of the poor :—

The experience of the Department shows that the poorer the quarter the less degree of public sympathy with the Act. From the overcrowded suburbs where labourers and artisans have their homes come the most frequent complaints of petty breaches. One shopkeeper will write complaining of another evading the Act by selling from a side door, it may be, and alleges that by his strict observance of the Act he, the writer, has obtained the reputation for not "obliging" customers. In these neighbourhoods years of slipshod household management have built up a system of casual night trade that is difficult to reform. Here the shopkeeper and his assistants are the white slaves of housewives, whose petty purchases extend over the whole day, late into the night, and cease only with sleep. Half the long hours spent in the stuffy, ill-ventilated shops are wasted in mere dawdling, the actual work itself being capable of being packed into a few hours. It is just the class of customer described, devoid of any economy of household management, born to wastefulness, negligence, and the lack of system, and in a continuous state of wanting to be "obliged" after closing hours, that creates the greater portion of the small shopkeeper's troubles in a crowded district.

The small shopkeepers themselves are not unsympathetic to the Act, and would gladly have the rest it gives them, if only their customers would shop within reasonable hours. There are, it may be, exceptional cases where these customers cannot do their shopping in the daytime, but the broad rule is otherwise. It can and ought to be done in business hours, and one of the least pleasant experiences in connection with the Act is the callousness with which people of the class described regard the hours worked by the shopkeeper, the temptation they place in his way, and the withdrawal in some cases of their custom from the man who honestly tries to keep the law, because he will not "oblige" by selling after closing hours.

The most troublesome portion of the Act, however, has been found by the officials to be that relating to "mixed" shops. Ought a chemist to close merely because he has in his shop tooth-brushes and other haberdasher's wares? The law courts have decided that he need not shut provided he does not attempt to sell

such articles after the hours at which a haberdasher's shop must close. On the other hand, may a dealer in general goods keep his shop open till 11 p.m. in order to sell one or two classes of goods such as are sold in exempted shops? A Judge has decided that he may not. At any rate, he must put up a substantial partition between the part of the shop containing the goods the sale of which is permitted after hours and the rest of the shop. In the corner thus cut off he may ply his trade; the rest of his premises must be closed. Such are some of the nice points of shopping Acts. That they arise does not prove that such laws are foolish, or that the goal they aim at is unattainable. They merely show that ingenuity, patience, and vigilance are needed. Given these, and a legislature ready to meet unexpected points with prompt amendments, shopping laws may succeed, as the New Wales law has succeeded, on the whole, in spite of the difficulties here touched on.

It worked well enough in New South Wales, even in the first year, to tempt the South Australians to adopt it after twelve months. Their Early Closing Act is virtually a copy of that just outlined, at any rate in the division relating to shops in Adelaide and its suburbs. As there are no other towns in South Australia of any considerable size, the sections of the Sydney law dealing with shopping in country towns were not imitated. It was thought enough to enact that a majority of shopkeepers in any country district might petition the Government to gazette fixed hours for closing their shops, and also select an afternoon for a weekly half-holiday. A list of no less than eleven classes of exempted shops are found in the schedule of the Act. There is the usual provision that each assistant employed in these shops is to have a half-

holiday on some day of the week. As in other colonies, hawkers and pedlars have to cease selling at the same time as the other retailers. A rather dangerous little proviso permits a shopkeeper to continue for half-an-hour after closing time to serve any customers who were in the shops when the hour for closing struck.

The same small proviso in rather worse shape is found in the law relating to shops enacted in Queensland in the same month of 1900, and which forms Part VIII. of the Queensland Factories and Shops Act. In its more important features this law may well delight the shop reformer. It fixes a Saturday half-holiday for Brisbane and all the suburbs within a ten-mile radius, and closes shops at ten o'clock on Friday night, and at six o'clock on the first four evenings of the week. In districts other than Brisbane, the shopkeepers may take a poll as to which afternoon shall be the half-holiday. Butchers and hairdressers may unite in fixing a special day for the half-holiday in their trades, and nine classes of shops are exempted from closing, though their occupiers must give assistants a half-holiday. Oddly enough, the half-holiday for these assistants begins at two oclock, though the regulated shops close at one o'clock. The hours of male assistants in exempted shops are, moreover, limited to sixty a week, except in the case of barmen, whose hours may be seventy-two. Females and boys under sixteen in these shops must not be employed for more than twelve hours a day, exclusive of meal-times. In the regulated shops no female or boy under sixteen may be worked for more than fifty-two hours a week, or nine and a half a day.

So far as the half-holiday is concerned, it has been left for Queensland to get first to the goal by the short cut of closing the shops in and around her chief city on

Saturdays. This is interesting to colonists, because Queensland is commonly looked on as the intrenched camp of colonial Conservatism. Victoria stands alone in limiting the hours of shop-assistants, men and women alike, to fifty-two a week; while New Zealand, now left behind by Australia in the matter of early closing, is still the one colony which shortens the working time of merchants' clerks. In New Zealand, moreover, the shop-assistants have the Industrial Arbitration Court to go to if they want to have their hours regulated, and to the Court, accordingly, several bodies of them have gone.

Minor Labour Laws

Throughout the colonies labourers are still much more given to wander from province to province than are workmen in Europe. The immigrant, after the great uprooting on quitting his birthplace, thinks comparatively little of a second or third shifting. The colonial-born, for their part, are usually ready enough to move: it is their way of seeing life. Even artisans seldom regard themselves as fixtures, at any rate before middle life. But of all classes far the most nomadic is that of the shearers. They are changing in many ways. The foul-mouthed, hard-drinking, riotous gangs of thirty years ago are now almost a vanished race. The shearer of to-day is often a peasant farmer who spends a great part of the year on his own acres, and has a wife and family and a comfortable little homestead. Or, if young and a bachelor, he may be the son of a substantial farmer, and cherish the ambition to own land of his own. He works just as hard as, and shears more neatly than, the old-time hand of the rough days of rows and sprees and the "knocking down" of

cheques. The man of to-day pays his cheque into the bank, and after six or seven seasons is often well on the way to become a small farmer. He is an educated man, quick to assert his rights, reads the newspapers, and is not infrequently a keen politician. Many of the unattached shearers not only rove through large districts, riding on horseback from station to station, but travel yearly from one colony to another in Australia, and even cross the sea to New Zealand. The shearing season varies with the latitude and the climate; and in rough country and on large runs one mustering of the sheep is not enough; the wilderness has to be scoured a second time for stragglers, and this involves a second, though smaller, shearing some time after the first. In one way and another a skilful and active shearer who likes a roving life may spend the greater part of the year either at work or travelling from one scene of employment to another. Some do thus combine work and wandering year after year. Shearing is piecework; men are paid so much a hundred sheep. During the last forty years the price paid for shearing merinoes or half-breds has varied from fifteen shillings to—occasionally—a pound the hundred.[1] The very best shearers can still sometimes make their thirty shillings a day when in luck; but many things interfere with their work—rain most of all. In any case, few are clever enough to earn so much. Then the travelling from job to job—travelling which is often long and expensive—has to be reckoned when calculating the shearer's net income. Still, a first-rate shearer may have over £100 in hand after a good year's

[1] In Victoria, in the eleven years 1889-1899, the rate varied from 15s. 1d. in 1895 to 16s. 5d. in 1892. In New South Wales in 1902 the rate was 20s., in Victoria 18s. 6d., a hundred.

work. The sheep-owners provide them with large huts to sleep in. There a grievance sometimes crops up. On the better sort of stations the comfort of the men has for many years been attended to decently enough, and their quarters have given no fair cause for grumbling. In a certain number of places the owner or manager has neglected them. Shearing is for the most part done in dry, hot weather. The men do not require luxury, and only stay a few days, or at most a few weeks, at each station. It has been natural, therefore, to look upon them rather as gipsies moving from camp to camp than as labourers who had to be housed like other work-people. The shearer who spent months of his life every year in station huts did not see the matter in the same light. In the course of the season he encountered many wet days and cold nights, and sometimes had to spend these in crowded, ill-ventilated hovels.[1]

[1] What the worst sort of shearers' huts in Australia could be like may be gathered from these rough verses, printed some dozen years ago in the *Worker*. Some exaggeration should be allowed for, and the English reader should be warned that the state of things they satirise was never more than exceptional :—

"THE SARDINE BOX"

For weeks and months it stands, silent and lone,
By tramps and tourists alike unknown,
Till the musterer's cry resounds from the rocks,
And the shearers tenant the "Sardine Box."

This mansion is scarcely ten feet wide,
With bunks erected on either side ;
While, extra comfort the place to lend,
There are three in addition at either end.
The frame is of birch—more strong than neat,
And the total length about fourteen feet ;
Of fittings there's naught, for nobody cares
To trouble us shearers with tables and chairs ;
For the hawk has a nest—there's a hole for the fox,
But men must sleep in a "Sardine Box."

The iron that covers the walls and roof
Is scarcely weather and water proof,
For years ago a misfortune dire
Destroyed the building one day by fire ;
So, forced to erect the frame anew,
'Twas thought the old iron again would do.

In 1894 a New Zealand Factories Act placed under Government inspection the buildings in which shearers sleep and take their meals, and gave inspectors the right of calling on the owners of such places to make reasonable provision for the health and comfort of their men. The reports of the inspectors in the first years after the regulations were enforced show that there was good reason for it. Many improvements were insisted on, though most run-holders, it is only fair to say, did not require any urging to do all that was needful,—they had already done it. In 1898 the provisions of the Factories Act relating to shearers were embodied in a separate Act, "The Shearers' Accommodation Act." A similar but more elaborate law was passed in New South Wales in 1901, enacting, *inter alia*, that henceforth in that colony all sleeping sheds for more than six shearers must be divided into compartments, and not more than four men be expected to sleep in each. In New Zealand each sleeper is entitled

And through the old nail-holes, close to our bunks,
Like the loopholes used by the ancient monks,
We can gaze on the beautiful river and rocks
As we shiver and shake in the "Sardine Box."

We cannot complain that we're all in a heap,
For we sleep in bunks only three tiers deep,
With nearly eighteen inches between
To hang up our clothes and keep them clean.
The bottoms are sacks, I'd have you to know,
Each move shakes the dust on the man below;
And hearing him sneeze and choke for breath,
You know that he isn't quite frozen to death:
And thus we are saved from the terrible shocks
Of finding him dead in the "Sardine Box."

The floor is of dirt, which time never stains,
And the more it is worn the more it remains;
While not to leave us entirely benighted,
By one small window the building is lighted.
Oh, we never again shall be left in a fix
By the fire getting out through a hole in the bricks
Of a badly-built chimney. There's many a one
Has saved us from that by giving us none.
So to keep ourselves warm we must sleep in our socks,
Lest we perish of cold in the "Sardine Box."

to 240 cubic feet of space. Clearly the days of the "sardine box" are numbered.

In the colonies it is a common practice to engage domestic servants through registry offices. Country employers, in particular, have to depend upon these to procure house servants for them. For female servants of anything like skill can, as a rule, only be found in the towns, and masters and mistresses have often to send many miles to engage them. Sometimes the master or mistress journeys to town to attend to the business in person; sometimes this is impossible, and the selection has to be entrusted to the keeper of the registry office. In that case master and servant only see each other's faces for the first time after the latter has made the journey—it may be a long journey—up the country. Both have had to trust to the registry-office keeper, and often enough in the sequel they unite in blaming the middleman for involving them in a bargain which ends in disappointing both sides. Doubtless the middleman does not always deserve blame: he cannot make lonely homesteads attractive, or clumsy servants competent. But the registry-office keeper, like all other middlemen who have two sets of clients more or less in their power, is occasionally unscrupulous, and requires careful watching. Certainly this was not infrequently the case in New Zealand before the passing of the Servants' Registry Offices Act of 1895—a law which was promptly adopted in Victoria to counteract similar tendencies there. Cooks, housemaids, and nurses are not as a class very astute and business-like persons. They are probably more open to be bullied and bamboozled than any other set of adults of equal numbers. When alone and amongst strangers, numbers of them

are no more able to hold their own than so many children. The solitary servant-girl seeking a place, and nervously anxious to find one, was in bygone years as easy a prey for the sharper as could well be found. She was often overcharged, and was lucky if she got off with no worse treatment. Sometimes she was induced, while waiting for a situation, to take up her quarters in a boarding-house, owned partly or entirely by the registry-office keeper. Here she was kept dangling on till her savings were spent. She might in the end be sent a long distance to an impossible household—an establishment from which she might be thankful to escape on any terms. Remonstrances at the registry office were met with threats, jeers, and insult.

Such extreme cases were not common, but petty overreaching and trickery were common enough. The decent office-keepers suffered through the competition of the lower sort, and were but half sorry when in 1895 the Government took the regulation of the registry business in hand, and put the offices under the control of the Department of Labour. Office-keepers had to be licensed, and to apply to the police magistrates for their licenses. Only those of good repute were passed. Their offices had to be registered, and they, and their books and methods, to lie open to the Labour Department's inspection. They must keep true copies of all accounts and correspondence. They were no longer allowed to combine the registry business with the keeping of any boarding-house. Above all, their scale of fees was to be fixed and gazetted every year by the Department, and penalties were attached to overcharging. The Act, by all accounts, has done its work thoroughly well during the six years in which it has been in use. The colony of Victoria adopted it in 1897.

Over and above the Factories, Shop Hours, Servants' Registry Offices, and Arbitration laws enacted in New Zealand in the five years from 1891 to 1895, inclusive, a series of statutes were passed at the same time to protect the wages of workpeople. At first sight they are sometimes taken to refer to workmen only. In truth they apply to working-women as well, and to youths and girls under age. These statutes are—the Truck Act, 1891; the Contractors' and Workmen's Lien Act, 1892; the Workmen's Wages Act, 1893; certain clauses relating to bankruptcy law in Acts of 1892 and 1893; the Shipping and Seamen's Act, 1894; and the Wages Attachment Act, 1895. The Truck Act, 1891, adopted both in South and West Australia in 1899, and in New South Wales in 1900, contains little that would seem novel in England. It simply provides that an employer, when he has agreed to pay a certain wage, must pay it in full, in cash, promptly, and without any sort of stipulation as to how, when, or where it is to be spent. Under the Workmen's Wages Act any manual worker may claim to be paid his wages weekly. An employer who — himself, or through an agent, partner, or servant—sells goods to a workman in his employ cannot recover their price, much less can he set it off against any wages he may owe his workmen. He may indeed recover house-rent; but almost the only supplies he is allowed to furnish and claim payment for are meals given under his own roof, medicine, medical attendance, and forage. Landowners, however, are allowed to equip parties of men to whom they let contracts for felling timber. These they may furnish with tools and outfit to enable them to begin their work. The cost of such supplies, however, to any one man is not to be greater than two

months' wages. This concession illustrates one of the difficulties in the path of the framers of colonial labour laws—the primitive state of society and industry in the districts on the edges of the wilderness. There it is necessary to allow truck; for in many pastoral tracts, if the employer does not keep a rough sort of store, his men might have to ride or walk many miles to buy a pair of boots or moleskins or a plug of tobacco. On the lonelier sheep runs the conditions of life are akin to those in a ship at sea. Patriarchal arrangements linger on, and on the whole are not abused. Like seamen, therefore, farm-hands and men at work on sheep and cattle runs are designedly left outside the Truck Act. On the other hand, truck had been so abused in the colony by one or two public contractors—who had practised making two profits, one out of the Government, another out of their men—that their class was strictly forbidden to provide workmen with any supplies whatever. The latitude allowed to ordinary employers was denied to them.

Contractors, indeed, private as well as public, have a good deal of attention paid them in the New Zealand labour laws. The Workmen's Wages Act gives any contractor's workmen, whose week's wages are a day in arrear, the right to serve a notice on the contractor's employer and stop him from paying any further contract money to the dilatory contractor. The workman, that is to say, could attach the contract-money; his wages were made a first charge on it. West Australia adopted this law in 1898, with the proviso, however, that the amount of the first charge shall not be more than £10 in the case of each workman. In both colonies wages are payable weekly unless there should be an agreement to the contrary. Furthermore, under

another New Zealand Act, the Contractors' and Workmen's Lien Act,—passed in 1892 and imitated by West Australia five years later,—contractors' labourers engaged on buildings or works of construction could, if their wages were not paid, register a lien against the land and property on which they were employed; the owner then had to see that they were paid their due; in default, his property became liable. Perhaps the most practically useful section of this law was that which obliged the property-owner, on the completion of the contract, either to ascertain that the contractor had paid his men or to hold back one-fourth of the contract-money for a month, so as to give any unpaid workmen a chance of attaching it. As preventives these legal remedies have worked well. Without leading to much quarrelling or litigation, they have made both contractors and contractees careful. The speculator who, a mere man of straw, was ready to tender for any contract at a cutting price, and who, on failing, flitted unannounced, leaving his exasperated and helpless workmen without recourse, is a much less common figure in New Zealand industry now than in bygone days.

A New Zealand workman's wages may only be attached for debt if they exceed £2 a week. In that case the excess above the £2 may be attached. To hinder a creditor from making merely harassing applications for attaching orders, it is enacted that he is not to recover the cost and expenses of attachment unless by his action he gets out of his debtor more than enough to defray these. This law was passed in 1895, and a similar Act with the same £2 limit was adopted in Victoria in 1898. Here we have cases in which colonial legislatures have hesitated to go as far as an English precedent. South Australia, however, showed no such

hesitation: her Wages Attachment Act, 1898, exempts all wages and clerks' salaries from attachment.

Under New Zealand laws dealing with bankruptcy, passed in 1892 and 1893, clerks are given a preference amongst the creditors of a bankrupt's estate for unpaid salary due for services rendered during the four months before the bankruptcy; while workmen are given a similar preference to the extent of £50 for any work done during the two months before it.

Under the Shipping and Seamen's Acts of 1894 and 1896, shipowners, foreign or colonial, who may engage in the New Zealand coastal trade must pay their seamen's wages monthly in the first week of each month, or as soon thereafter as their ship comes into port. Any seamen they engage in the colony must be paid the full rate of wages current on the coast for the time being, and if discharged in the colony, may recover wages due up to the time of discharge. Where seamen are paid their wages in foreign money, they are to be given also the equivalent of the current rate of exchange. If any seamen be discharged in New Zealand from a foreign-going ship, because of sickness or accident, the collector of customs may call upon the ship's master to deposit not more than £50 to defray all expenses that may have to be incurred over the sick or disabled man. When seamen engage in the colony, their engagement may be determined as soon as the ship reaches her final port of discharge—at the end of her round voyage—by twenty-four hours' notice on either side. Other sections of these Acts stipulate that steamships in the coasting trade shall carry a legal number of engineers and able seamen, and that sailing-ships shall carry a fixed minimum number of able seamen and apprentices. Elsewhere it

is provided that seamen's quarters shall be decent, and their food sufficient and wholesome, and that the Government's inspectors may see to this.

Without claiming any remarkable novelty for colonial laws protecting or regulating labour in mines, I may briefly mention that by a New Zealand Act of 1891 dealing with gold-mining, a lien for unpaid wages was given to working miners. Whenever their pay was not forthcoming for seven days after it was due, they were both to have the right to register a lien against the claim on which they were employed, and were to be "deemed to be in possession of the said claim." Men working in mines under contract, as small parties of miners often do, were to have a similar privilege; so was any "tributer" or gold-miner working out a block of ground for its owners on special terms. The lien of the ordinary-wages man was to be for three months' wages; that of the worker under contract for any moneys owed to him up to £100; that of the "tributer" for payment for every day of his labour, to be calculated at half the rate of wages current in the district.

The Victorian Mines Act of 1897 fixed forty-eight hours a week as the hours of men working underground. Women and children are, of course, forbidden to work in mines in the colonies. A New Zealand law enacted in 1897, and adopted in a slightly altered form by West Australia two years later, forbade generally the employment for hire or reward of any workman to do skilled or unskilled manual labour in or about a mine on Sunday. An inspector of mines, however, may authorise a certain number of workmen to be employed in absolutely necessary work. Every inspector's permission must be in writing, and must state the reason

for granting it. Moreover, beyond this, a mine manager may employ workmen in case of special emergency involving danger to life or damage to property. Section 8 of a New Zealand Mining Act (Amendment) of 1900 gives to industrial unions registered under the Industrial Arbitration Act the right of appointing two workmen to inspect any mine in which members of the union are employed, and to report upon its condition and that of its machinery. The union is to pay costs of inspection. The report is to be handed to the mine manager, who is to preserve it and allow the Government inspector of mines to see it. In New South Wales an enactment of 1900 established a system for providing an accident fund for miners and their families. A committee was set up for each mine, and to this body was made over a fund, jointly contributed to by employers, workmen, and Government. The employers pay 10s. a head yearly on the average number of their men, the Government an equal sum, and the men 4½d. apiece weekly.

None of the colonies except New Zealand and South Australia have come into line with the Mother Country in making employers compensate work-people for accident occurring in course of their employment. Most of them are satisfied to leave workers to more or less cumbrous rights of civil action. In Victoria, indeed, under a small but interesting Act passed in 1898, for the protection of workmen engaged in removing dangerous buildings, such men are entitled to compensation for accidental injuries up to a maximum of three years' wages. If they are killed the right passes to their dependants. A clause of this Act stipulates that the wages of these workmen are not to be less than 1s. 3d. an hour, notwithstanding any agreement to the contrary.

New Zealand began in 1891 and 1892 by improving

on the English law of employer's liability, and her statutes of those years were of interest until they were eclipsed in 1900 by the adoption of an expanded version of Mr. Chamberlain's well-known law. As applied in the colony, this provides for compensation for accidents in all occupations where the sufferer is employed in—(1) any industrial, commercial, or manufacturing work which is part of the employer's business; or (2) in any mining, quarrying, building, engineering, or other hazardous work carried on by or on behalf of the employer, whether as part of his ordinary business or not. Government and local bodies are liable in the same way as private employers. Shipowners are also under the Act. Where the worker is injured by wilful act or by negligence of the employer, he has his choice of claiming under the Compensation Act or of taking proceedings outside of it for civil damages. Injury caused by the worker's "serious or wilful misconduct" does not entitle him to compensation, nor does the Act take account of trifling accidents which do not disable the worker for a fortnight.[1]

Clause 8 provides that all questions arising as to amount or duration of compensation, liability of employer, or the nature of the occupation of any worker bringing proceedings, shall be settled by the tribunals set up under the Industrial Conciliation and Arbitration Act. In case of a worker dying of any injury caused by an accident, the sum to be awarded to his dependants varies from £200 to £400, unless they were but partially

[1] In a compensation case heard by the Arbitration Court at Auckland in January 1902, a worker claimed on account of an injury—the loss of three fingers—received through putting her hand into machinery. Her employers asserted that she had been warned against doing this. The Court held, however, that technical neglect was one thing, and serious or wilful misconduct another, of which she was certainly not guilty; and she recovered compensation.

dependent on him. In the latter case, the tribunal determines what sum is reasonable. Want of or defect in any notice to be served on an employer is not to be a bar to proceedings unless the employer is thereby prejudiced in his defence.

Contracting out is permitted if the scheme of compensation to be substituted is approved by a conciliation board. All subsequent complaints about any such scheme are to be inquired into by the same board, which must revise every scheme once in five years.[1] Contractors' workmen may look for compensation either to the contractor or to his contractee, for both are deemed to be employers and are jointly and severally liable. Where there is sub-contracting, the sub-contractor shares in the liability. Compensation is a first charge on a bankrupt employer's estate. In the case of an accident in or about a mine, factory, building, or vessel, the compensation is a charge on these properties from the time when the accident occurred.

All contracts whereby workers relinquished any right to compensation from an employer, and which were in existence when the Act came into force, were thereby determined; and all accident insurance policies issued thereafter could only contain such provisions as might be approved by the Governor in Council.

Legal doubts have been raised as to whether farm-labourers are entitled to the benefit of the Act. Apart from this doubt, any one familiar with the English Act upon which the colonial law is based will see that the

[1] The Wages Protection Act, 1899, had already absolutely prohibited an employer from compelling or inducing his workpeople to contribute portions of their wages or other money towards an insurance fund against accidents suffered in his employ. It went so far as to forbid any insurance company from receiving from workers, even with their free consent, money contributions in respect of any policy intended both to cover an employer's liability and insure his workers against accidents.

scope of the latter is much wider than that of its original. The scale of compensation is more liberal; seamen are specifically included; the significance of the words "on, in, or about," when used in relation to employment on which a worker is engaged, is not confined to a local sense; contractors' workmen have a double right of remedy—against the contractor and against his principal, and in certain cases they may have a first charge on real property, shipping, and machinery. Moreover, in case of dispute, the proceedings before boards of conciliation and the Court of Arbitration ought to be cheap and not hampered by technicalities.

The South Australian law follows the English model more closely, does not make use of the services of any such body as a conciliation board, and does not purport to make compensation a first charge on any property. Its scope is not quite so wide as that of the New Zealand law, as it only applies to farm hands and workmen employed in the pastoral industry in cases where steam, gas, or oil, or other such mechanical power is used. Again, seamen and wharf labourers can only claim compensation for injuries received about or through machinery used in the work of loading or unloading vessels. Otherwise the Act embraces workers employed on, in, or about railways, waterworks, tramways, electric lighting works, mines, quarries, engineering, or building. Parliament, moreover, may by addresses from both Houses require any industry to be declared by proclamation dangerous to life, limb, or health, and it is then brought under the Act. The Public Actuary is the officer charged with the duty of reviewing proposals for substituting schemes of private insurance for the compensation provided by the statute. In assessing compensation for disablement no injury is to be reckoned

a disabling one unless the worker is laid up for at least a week. The sum awarded may vary from 7s. 6d. to £1 a week, but is not to exceed £300 in the aggregate. In case of death the payment to dependants may vary from £150 to £300 according to the rate of the deceased's earnings. In New Zealand brothers and sisters may be reckoned to be dependants; in South Australia they may not. In New Zealand employers may insure in the Government Insurance Office against accidents to their workmen. In January 1902 the Commissioner of this office made the following statement on the subject:—

> The benefits which the people have derived from the existence of the Government office is shown by a comparison of the rates ruling in this colony with those in South Australia, where the business is solely in the hands of private offices. In South Australia the workers' compensation rates are in many lines double those ruling in New Zealand, whilst, as the benefits under the South Australian Act are considerably smaller than under the law of this country, the rates there should, as a matter of fact, be the lower of the two.

Admirable as is the spirit of these sweeping applications of the principle of employers' responsibility for their workers' mischances, only experience can show whether a still better method of protecting work-people may not yet be found. The Acts are leading to a widespread system of insurance against the liabilities they impose. It remains to be seen how the annual amount of the insurance premiums paid by employers will compare with the total sum awarded in compensation and provided by insurance companies; also how many claims are resisted, and whether accidents diminish in number. Meanwhile, the Compensation Acts protect the savings of the thrifty poor, diminish

their anxieties, insure their families against sudden, unavoidable disaster, and are therefore beneficent, though possibly not final, experiments.

The last law to be mentioned in this chapter is the shortest. This, a New Zealand enactment of 1899, declares that the second Wednesday in October shall henceforth be known as Labour Day, and that Labour Day shall be a public holiday.

The Unemployed and State Employment [1]

In May 1891 a deputation headed by the members for Wellington waited upon the Prime Minister of New Zealand. Times were dull, many hands were idle perforce, and the deputation came to urge that something should be done to relieve the congested labour-market and deal with the unemployed in their city. The Premier had with him in the room a colleague, to whom, as the discussion went on, the suggestion was made that the Government should use its officials to furnish reports from country districts where there was

[1] Authorities.—Reports of Department of Labour, N.Z., and of Bureau of Labour and Commissioners of Labour, N.S.W. and W.A. ; "Report on the Labour Bureau in New Zealand," by George Lewis, P.P. (N.S.W.), June 1893 ; *Journal of the Department of Labour*, N.Z. (monthly) ; "The Co-operative System of Constructing Public Works," by H. J. H. Blow, in the N.Z. *Official Year-Book*, 1894. Mr. Blow's article is reprinted with notes and comments in a publication of 1896 by the Labour Department of the English Board of Trade. This is a Report on Contracts given out by public authorities to associations of workmen. Mr. D. Schloss, who compiled it, gives on page 244 a list of documents relating to the New Zealand system. "Report on the N.Z. Co-operative Contract System," by W. P. Hanna (of the N.S. Wales Public Works Department), N.S.W., P.P., 1902. For information on the fair wage system of the Department of Public Works I am chiefly beholden to Sydney newspapers. To give an instance, an account of the special conditions of the department may be found in the *Daily Telegraph*, 5th January 1901. Consult also Métin, chap. vii., and Lloyd, *Newest England*, chaps. v. and ix. Annual reports on the Leongatha colony are found among the Victorian parliamentary papers. Accounts of it are also given in the N.Z. P.P. for 1895 in memoranda on "Village Settlements in Australia." See also Fenton (Victorian *Official Year-Book*).

any demand for workmen. The Minister caught at the hint, and, at the Premier's request, took the matter in hand. In the little incident of that interview the bureaux of labour now found in half a dozen colonies had, I think, their beginning.

At any rate, a Bureau of Labour, which in a few months became a Department, was forthwith established in New Zealand. The first Australian Department of Labour was that of New South Wales, set up in 1895. Each was given in charge to a member of the Cabinet, and both still exist and are actively at work with functions of widening scope. In New South Wales, however, a registry office and bureau to deal with unemployment preceded the Department of Labour by several years. The New Zealand bureau began work in June 1891; that of New South Wales in February 1892. Since then bureaux have been established in Queensland, Victoria, and South and West Australia. Only in New Zealand is the Labour bureau merged in the department of the same name. Elsewhere they are still separate, and the main functions of the department are inspection and the collection of statistics. As one statute after another dealing with factories, shops, workmen's wages, servants' registry offices, industrial arbitration, and compensation for accidents is passed, the amount of inspecting and investigating to be done grows yearly greater.

In the endeavour to find work for the workless much the same means were used in New Zealand and New South Wales. In both colonies a head office was opened with a secretary and three or four clerks. Scattered over the colony in towns and country were the agents of the bureau. A few of the more important were specially paid, and in New Zealand these became

also factory inspectors. The smaller agents are now usually policemen, and therefore cost little or nothing. At all agencies the unemployed are invited to register. Forms are filled up describing each man's trade and condition. The agents are expected to take reasonable precautions against imposture. It is their duty to report promptly and regularly to the head office on the state of the labour market in their neighbourhood.

The main object of the labour bureaux has always been to get the workless out of the cities and larger towns and disperse them about the country. The tendency of most, though not of all, these unemployed is to drift into the cities. Thither the sick and injured find their way for hospital treatment, and when discharged as cured wander about the streets looking for the wherewithal to make a new start. In the large seaports the ranks of the destitute are swelled by immigrants come from other colonies or countries in search of work, and by vagrants who have been shipped away from somewhere in order to get rid of them. The city is the natural goal of the noisy loafers, who bring all the unemployed into disrepute, though they form but a small minority of them.[1] And in the city the lazy, the utterly useless, and the social outcast inevitably herd together. The larger the city, the larger the leaven of these impossibles. Yet even in a city of the size of Sydney they form but a percentage of the genuine seekers for work, many of whom are in town from no worse motive than the hope of finding a job or

[1] In 1898 rather over 4000 applicants for work were registered at the Government labour bureau in Sydney. The officers estimated the number of chronic loafers and vagrants in and about the city at that time at from 300 to 400. The proportion of "impossibles" amongst the New Zealand unemployed who applied to the bureau there in its earlier years appeared to me to be from 5 to 10 per cent.

hearing of some place where there is a demand for labour. The statement, so commonly made, that all the unemployed make for the towns is nonsense. In slack times there is a large and constant stream of men "on the wallaby,"—that is, tramping from station to station and from farm to farm in quest of work. The complaint of the landowners in dead seasons is not that the workless will not move from the towns, but that they rove about the country singly or in twos and threes, and have to be fed. Distances are interminable in Australia. Even in New Zealand it takes a long time to walk from one province to another. There is probably work to be got somewhere, but the impoverished worker, if left to himself, may find the somewhere hard to reach. A few of these wandering swagmen are chronic vagabonds who tramp along, not dejectedly, asking for a job at each homestead, but none too eager to get it. Concerning these many amusing stories are told. Most of the swagmen, however, are genuinely anxious for work, and will take it at anything like the ordinary rates. The current rate for a casual station-hand one year with another is from 15s. to 20s. a week, "and found."[1]

The Government bureaux give help in four main ways. First, they engage any manual labourers who may be required by the public departments, especially by those of lands and public works, by which most of the loan money is spent. Next, they select and send out men willing to go to any private employers who have

[1] In Victoria the average rate for "generally useful" men on stations in the eleven years 1889-1899 fluctuated from 14s. 2d. to 18s. 4d. a week, with board. The former rate, which was that current in 1895, would be held exceptionally low in most colonies. Colonial ploughmen's weekly wages vary from 15s. to 30s., with board. Shepherds get from £30 to £40 a year in Victoria, and from £50 to £65 in New Zealand.

applied to the bureau for a supply of labour. In this the bureaux act much as do ordinary servants' registry offices. Again, when men are prepared to try their luck in country places where there is a fair prospect of getting work, the bureaux will give them passes on the State railways, and so despatch them thither. These railway passes play a considerable part in the relief system. They are given to all the unemployed sent out of the towns. Where the men are sent to Government employment the price of their railway tickets is afterwards deducted from their wages. The Government, it is thought, does quite enough for them in giving them work at good wages, and advancing them their train fares, without also making them a gift of the latter. When, however, the unemployed go at their own risk to look for work in some outlying district, it is not usual to make them refund their passage-money. They undertake to refund it, but are not usually forced to do so.[1] The fourth class of assistance with which the bureaux have to do is picking men for special relief works. These are public works put in hand to meet particular emergencies, and started, sometimes by Government, sometimes by municipal bodies, occasionally by committees of charitable citizens. Not very much money has been spent in this way in the last dozen years, though the earthwork done in Centennial Park, Sydney, in 1894-95, was an example of it, and the scrub-cutting in the West Bogan country in New South Wales another. In New Zealand, in the dull seasons of 1894 and 1895, local subscriptions started various more or less useful works in and about the towns, towards which the Government gave subsidies.

[1] In nine years £26,300 was refunded for fares to the Sydney bureau, but £54,200 was still owing in August 1901.

In New South Wales the bureau has been able to dispose of a large contingent of the workless by sending them to fossick for gold on old or deserted goldfields. There was something not utterly hopeless, if not exactly attractive, in thus trying to retrieve fortune. In five years some 27,000 men thus went out, and many of them did very well. Some hundreds were able to take up plots of land, and combine fossicking with small farming and rearing pigs or poultry. These men sent for their wives and families and settled down. A few did more than well. Two, for example, struck a gold-bearing reef in the Parkes district, rich enough to tempt a company to offer them £14,000 in cash and 6000 shares as the price of their claim. Most of the fossickers, of course, did not grow rich; but they made a living, for a time at least, in a better way than by shovelling sand in Centennial Park. The fossickers had to be furnished with miners' rights, and as moneyless men who go to old goldfields must eat, the bureau at the outset helped most of its parties with rations. Unhappily, fossicking is not an occupation easy to carry on in time of drought, and the droughts have hampered the Sydney bureau sadly.

As already hinted, the functions of the bureaux are twofold—to relieve distress among the unemployed, and to act as the channel through which labour passes into Government employ. The departments which employ manual workers usually take them from the bureau of labour. In this way men known to be in genuine need of work are given the best chance of getting it, and impostors and incapable persons are rejected. In prosperous years, when employment is plentiful (as it has been in New Zealand since 1895), the bureau's work is more and more confined to selecting workmen for employ by the

State departments. During the five years 1891-96, when work was generally slack, the New Zealand bureau sent 8981 men to Government employ and 5139 to private employers. During the twelve months ending with March 1901, the proportions were 2601 to 519.

I have sketched elsewhere the law regulating servants' registry offices. In 1895, not satisfied with regulating these, the New Zealand Government took a further step, and went into the business themselves by setting up a registry-office for female servants in Wellington. This branch of the labour bureau seems to have answered well enough, though laughed at and looked at doubtfully at first. For a while it was avoided by the better sort of mistresses and servants alike. Now, however, the Government's registry office appears to have overcome prejudice, and to be doing a fair share of the work of placing applicants. After the experiment had been tried for six years the Government of New South Wales thought well enough of it to copy it. At the same time (December 1901) the authorities in Sydney stated their intention of publishing a monthly labour bulletin. This has been done by the Department of Labour in New Zealand since 1891.

In New South Wales for several years most of the men engaged by the bureau were sent to private employers, or went out fossicking. When droughts stopped fossicking, and the expenditure on public works increased, the office's figures showed the same tendency as those of the New Zealand department. In 1897-98, 5000 out of the 7800 men assisted were sent to public employment, while less than a thousand set out to fossick for gold. In 1900-01, 7147 men were taken on by the Government, as against 1212 placed with private employers, and fossicking had virtually ceased to be a

means of disposing of men. Only 107 men were sent to goldfields in the year.

In both New South Wales and New Zealand the amount of labour which has passed through the bureaux has been considerable. Here are the figures :—

NEW SOUTH WALES BUREAU

Year.	Number Registered.	Assisted and sent to Work.
1892-93	18,600	8,154
1893-94	12,145	10,349
1894-95	13,575	16,380
1895-96	14,062	20,576
1896 (part of)	3,283	5,327
1896-97	6,427	13,718
1897-98	4,167	7,817
1898-99	3,843	7,228
1899-00	5,487	6,495
1900-01	10,639	9,654

The figures appear to show that more persons were assisted than registered. This is because a certain number had work found for them more than once.

NEW ZEALAND BUREAU

Years.	Men sent to Work.	Persons dependent on Men assisted.[1]
June 1891 to 31st March 1892	2,593	4,729
1st April 1892 „ „ 1893	3,874	7,802
„ 1893 „ „ 1894	3,371	8,002
„ 1894 „ „ 1895	3,030	8,883
„ 1895 „ „ 1896	2,871	8,424
„ 1896 „ „ 1897	1,718	4,719
„ 1897 „ „ 1898	2,035	4,928
„ 1898 „ „ 1899	2,115	4,759
„ 1899 „ „ 1900	2,147	4,471
„ 1900 „ „ 1901	3,124	5,432
	26,878	62,149

[1] In reference to the word "assisted" at the head of the column, it should be pointed out that most of the men were merely employed because the Government required their services. Many were not in distress, and hardly to be classed as "unemployed."

The Sydney bureau was angrily accused in its first years of playing into the hands of astute employers by allowing them to make use of it to pick up labour at less than current rates. The reply of the officials was that they had nothing to do with wages; they only brought employers and unemployed together, and left the latter to make the best terms they could. There is no reason whatever to suppose that they intentionally fostered sweating. That, quite innocently, the office may have given some ground of complaint is possible, for later on the officials found it expedient to hint to certain employers who offered to take men at exceptionally low rates of wages that it was unlikely that good men could be engaged at such rates. On the whole, I am clear that the Sydney labour bureau did useful work in very trying times. How trying these were may be judged from the general fall in wages. Between 1882 and 1897 wages for unskilled labour, and in many trades, in New South Wales fell as much as 25 or even 40 per cent. Even with this there was a dearth of employment, and much distress and discontent followed. The numerous strikes between 1890 and 1901 were not in the main the outcome of wanton quarrelsomeness. Most of them were either protests against falling wages or—in 1900 and 1901—efforts to secure some improvement after years of lowered wages. In the Newcastle collieries, where strife became almost chronic, it appears that the hewing rate paid to the miners fell from 5s. 2d. a ton in 1880 to 2s. 11d. a ton in 1898. In struggling against this the miners simply did what miners do everywhere.

So far, however, was the Government labour office in Sydney from solving the problem of unemployment, that in 1899 an advisory board was appointed to

inquire into and report upon the question, as well as to reorganise the registry office. At almost the same time a similar inquiry was set on foot in Victoria, where the unemployed had been numerous for seven years, and where distress in Melbourne had become chronic. In a night shelter, for instance, at Collingwood in that city, 17,000 persons were given refuge in the year 1877-78, and half of the refugees were women. The Victorian inquiry board made a progress report in June 1899. The New South Wales board reported three months later. Coming, therefore, at the same time, the two reports are documents of some value and interest. Both boards, of course, recommended, as a means of immediate relief, that the Government should start public works. The Sydney board was emphatic that these should be reproductive, and not mere means of providing wages, and should be carried on by the co-operative gang system of New Zealand. In Victoria, a Department and Minister of Labour on the New Zealand plan were proposed; in Sydney the bureau of labour was to be expanded into a national intelligence department. The Melbourne board suggested the adoption of the New Zealand system of industrial arbitration, and of State farms as refuges for the less capable, and compulsory labour farms for vagrants; these last—a hint probably borrowed from Holland—figure in both sets of suggestions. The Victorian advocates an extension of agricultural teaching in schools. In both great stress is laid on village settlements; in both it is recognised that careful supervision and instruction will be needed in such settlements where they consist of townspeople suddenly transplanted into the wilderness; in both, State advances to settlers at low rates of interest are suggested.

Undaunted by the almost universal failure of Australian co-operative settlements, the New South Wales board advised the encouragement of co-operation both in land holding and in industries to be carried on in village settlements.

It remains to be seen whether these reports will bear much fruit. In Victoria, at any rate, the suggested Bureau and Department of Labour were set up. In New South Wales the existing bureau was placed under Labour Commissioners, who—controlled more or less by the Minister of Public Works—have managed it since August 1900. During the first year of the new régime full use was made of their registry office, for no less than 10,501 unemployed labourers registered there. Work was found for 8351 of these. Nearly seven-eighths of them were sent to Government employment. Successful as the commissioners thus were in disposing of most of their applicants, their methods came in for a good deal of criticism last year. As far as I can discern, they seem to have distributed the work they had to offer honestly enough, on a system of rotation which was found fair and less capricious in its results than the balloting which had before been in use. They opened a night shelter, and settled fifty old men on the Pitt Town labour farm. These were but few of the many elderly or aged applicants for work, of whom 1500 were between fifty and sixty years of age, and 718 were over sixty. Of more than 16,000 offers of work made by the bureau's officers during the twelvemonth only 8000 were accepted; 5000 "elicited no response." It is but fair to point out that 95 per cent of the work was not of a kind to attract weakly men, made up as it was of ditching, road-making, dam-sinking, scrub-cutting, prickly-pear clearing, and the felling or ring-

barking of timber. The commissioners tried to introduce a sort of "butty gang" system, under which piecework was parcelled out among small groups of men, somewhat on the New Zealand system presently to be described. Admittedly, however, the unemployed of Sydney did not take kindly to payment by results, and their champions attacked the commissioners very bitterly, accusing them of sweating and starving the men. Some sentences from the commissioners' reply to these strictures are worth quoting for the light they throw upon the disheartening side of the business of aiding the unemployed.

As to the piecework rates offered to the men, it is true that on some of the similar works in the past some men have not made more than 3s. or 4s. per day; but it is equally true that on precisely similar works at similar rates many other men have made from 6s. to 8s. 3d. per day. Some of the men cannot work, and others will not, and of course it sometimes happens that good men are involved in loss by bad ones. Some of the men have had to be returned to Sydney at Government expense without doing any work at all, and in some other cases gangs have deliberately kept one man out of six, or even five, doing nothing but cooking for the remainder. Others, again, go to work late, work easily, and knock off early. In every case the rates for these works have been stigmatised locally as absurdly high, and much greater than any private landowner would think of paying for the same work. While it may be admitted that some of the men fared badly by reason of their unwillingness or incapacity, others on this same despised work paid their wives £4 per month for four or five months, paid all their living expenses, and had some £12 to the good when they finished work. How many men in ordinary employment save as much in a similar period?

But, after all, the piecework forms a very small portion of the work given out. Not more than one-tenth of the men sent to work have gone to piecework. The other nine-tenths have all had day work, and most of it at 7s. per diem. Yet great numbers of men refuse the work because it is away from Sydney, and some-

thing near half of those who do go abandon the work before completion—most of them within a month of starting.

When such complaints as have recently been published appear, it should be remembered that, with nearly 9000 men registered as unemployed, nearly all claiming to be chronically so, and a very large proportion of them the worst rather than the best of the industrial army, many complaints are inevitable. Yet during the last twelve months more, much more, has been done for the unemployed than ever before. Over 7000 separate men have been sent to work during that period, most of them more than once, and a large number several times over.

These passages show the kind of difficulties which attend State-relief work, yet they seem to suggest also a certain lack of foresight, arrangement, and competent supervision and control on the part of the authorities.

In another document, the commissioners' report for the year 1900-1901, occurs the following, which I quote, though I believe that in truth very little favouritism has ever been shown at the bureau of labour :—

We again express the opinion that Members of Parliament would save themselves much trouble and worry from which they ought to be free if they would, once and for all, make such arrangements as would put the employment of men on public works entirely beyond the reach of any political or social influence whatever. A Bill is before the Legislative Assembly with this as its object, and we sincerely hope, in the interests of all concerned, and for the preservation of fair play and equitable treatment of all who are compulsorily idle, that the object sought will be ensured at a very early date.

As the last page of this chapter will show, this appeal to common-sense was not made in vain.

The men sent by the Sydney bureau to Government work at day-wages have for some time past been graded according to capacity, and paid 7s., 6s., and 5s. a day respectively. I read that this arrangement is purely

experimental, and may be modified as experience suggests.[1] Without insinuating that New South Wales is in any danger of being demoralised or ruined because a few hundred third-rate workmen may be paid 5s. and 6s. a day for doing 3s. or 4s. worth of work, I am bound to express my conviction that paying time wages to inferior men on relief works or public works never has answered, and is never likely to answer. If the wages are very low, the result is cruelty; if they are normal, money is wasted. Piecework at fairly liberal rates is much more likely to survive the sort of public criticism which comes in a storm when one of their periodical fits of economy seizes colonial taxpayers.

In trying to deal with unemployment, colonial Governments have, very sensibly, made use of the State railways, finding in them, ready to their hands, a cheap means of removing surplus labour from congested districts. As owners of wide tracts of unused land, they have made a series of attempts to place unemployed on the soil, with what success has been sketched in the chapter on village settlements. In New South Wales men are systematically assisted to search for gold. The Governments have also, as large employers of skilled and unskilled labour, done their best, in some colonies at least, to "make the work go round." Men who have had a good long term of employment on public works

[1] The following, cut from the Sydney *Daily Telegraph* of January 1902, bears on the subject:—

The registry office for females will be started shortly, and the shelter-sheds for homeless men are now in full operation. The relief works, which are chiefly in the country districts, are still under the control of the Labour Commissioners, and all men who desire employment of that character should register at the Labour Bureau, Redfern. The recent instructions given to overseers to see that men on the day-labour works earn the wages paid them have led to the retirement of a number of men on various works who were not giving satisfaction, and some of these are indulging in complaints about harsh treatment, etc. An overwhelming majority of the men, however, are acting up to the adage that "a fair day's work should be given for a fair day's pay," and consequently fewer complaints are reaching the Works Department from those who are opposed to the day-labour system.

are occasionally paid off in order to make room for applicants whose need seems to be greater. In all this, as well as in collecting and circulating information relating to labour, colonial empirics have merely made use of such palliatives of unemployment as lay nearest to their hands. They have found no sovereign remedy. Their bureaux and departments of labour have done a good deal to reduce distress and have worked cheaply and honestly: it would be foolish to claim more for them than that.

The Victorian labour bureau has not had a long life, and its work is solely to engage men for Government employment. Victoria, however, can show one experiment which represents a persevering effort to deal with the problem of unemployment. Moreover, thanks in great part to a single-minded enthusiast, the experiment has not been a failure. I refer to the labour farm at Leongatha. All students of social problems have heard of the German labour colonies where the low-class labourer, whom no one wants, may find food, shelter, hard work, and low pay. In 1893—the miserable year when speculation and sweating had brought Melbourne, for the moment, almost to its knees—it was decided to imitate the German system in Victoria. Something had to be done for a class of unemployed too unskilful or shiftless to be made into settlers. A council of seventy philanthropic gentlemen addressed itself to establish labour colonies, and one was set up at Leongatha in Gippsland, which is still to be seen in operation. There 800 acres of good but heavily-timbered land was handed over by Government to the philanthropists. Government, too, undertook to grant £2 for every £1 subscribed by private persons. The management was to be left to nine trustees elected by the council. The

usual result followed. The benevolent amateurs spent £5000 rather more quickly than wisely, and before the first year was out the State had to choose between taking the farm over or seeing it closed. It became a State institution. One of the philanthropists, a firm, capable stayer, continued to superintend the undertaking. For eight years Colonel Goldstein has given his services to Leongatha for nothing, and to him it is due that the only labour farm now found in Victoria has not failed. It is not a colony, as it is incorrectly called. Men go there to work for a time, getting in return their food, rough shelter, and a few shillings a week. Married men do not take their wives and children there. There are no homes there, and nothing home-like about it. Rough, plentiful food; bunks to sleep in; barrack-like huts as shelter; work done in gangs, under an overseer's eye,—these make up life at Leongatha. Men come there as often as not through drink, and stay there on the average three months. Goldstein and his officers do their best to find private employment for them, but in the twelve months ending with June 1901 only forty-two were placed in this way. Of the others who left during the year eleven were discharged for various offences, six went to hospital, and the rest departed to look for work outside. The good points of life at Leongatha are that it is wholesome, and gives good food, fresh air, and regular work to the half-submerged. Against this is its cheerlessness. The men look dull and quiet, and lack spring and hopefulness. Kindly as the management is, useful as is the part played by the farm, Leongatha is not a pleasant place in a colonist's eyes, though to the orthodox English economist it may be the most "legitimate" and attractive of colonial experiments. During eight years, 4279

men have been sent there. The cost to the State during the time has been £26,420. The cost per head of the inmates, including food and management, is a few shillings less than £20 a year. The outlay last year was £4000, and the receipts about £1160. The difference is partly made good by improvements to the property. The farm, with all on it, is estimated to be worth £23,343. If that be so, or nearly so, the State is doing a good deed very cheaply; for, at the worst, a labour farm is better than a stone-breaking yard, better than a workhouse, and much better than a gaol.

Quite apart from relief works, and from special efforts to relieve men out of work, colonial Governments are large and regular employers of manual labour. Speaking in 1901, Mr. O'Sullivan, the Minister of Public Works in New South Wales, thus summed up a year's work of his department:—

> His department was the largest industrial organisation in the southern world, and, indeed, there were very few outside Europe or America to compare with it. Between 19,000 and 20,000 men were employed, and he asked them to judge of its usefulness by the amount of work carried out. During the last eighteen months the department had constructed 11 lines of railway, 17 lines of tramway, had carried out 102 works in connection with harbours and rivers, 88 sewerage matters, 22 country water supplies, 20 schemes of water conservation, had erected 60 public buildings, 103 bridges, had put down 24 artesian bores, and 47 tanks and dams, carrying out in all 499 important undertakings.

He might have added that in the three years 1898-1901 the department had spent nearly seven millions and a half of revenue and loan money.

Most of the many millions which the Governments of the seven colonies have spent in making railways, roads, and bridges, in erecting public buildings (most of

which are necessary), in improving harbours, and in draining swamps, have been expended under the ordinary system of tender and contract. The drawbacks of that system have been much the same at the antipodes as in Europe. The profits made under it by the contractors as a class, though not, perhaps, monstrously excessive, were unequal, uncertain, and went into the pockets of a few. Contractors have sometimes made great gains, and sometimes lost on their bargains. Both results have been mischievous to others as well as to themselves. When a loser, the contractor might fail to pay his workmen or other creditors. If he reaped large profits, it was at the taxpayers' cost. There were contractors whose profits were dishonest, for they were swelled by scamping work or furnishing bad material. There were contractors who fleeced their workmen through stores of which they were secret owners or part owners. There were contractors who paid good wages, but yet through their underlings drove their men so hard that even the colonial navvy, one of the toughest and quickest workers on earth, would curse the foremen and overseers for a set of flinty-hearted nigger-drivers, and strikes amongst contractors' workmen were not unknown. Only the strongest men had any chance of being taken on by a Government contractor; second-class labourers were shut out altogether. Finally, all the objections to contracting applied with double force to sub-contracting. A clever contractor sometimes made money out of his contract twice over,—out of the Government and out of his sub-contractors,—and the officers of a public works department were occasionally witnesses of a curious result: a contractor might retire with a very handsome profit, whilst one or more of his sub-contractors might be ruined, their workmen be left unpaid, and tradesmen

who had given them credit figure in the list of losers. It is not pleasant to see Government expenditure producing extortion, over-reaching, losses, and bankruptcies.

The evils of the direct employment of labour by a State department on day-wages, and in the ordinary way, are well known. They have been grossly exaggerated by the theorists, who rail at every new work a Government undertakes, as well as by less respectable critics, who secretly lament the disappearance of the jobbery and the profits begotten of contracting and sub-contracting; but they exist. To Mr. Seddon, when in 1891 he was Minister of Public Works in the Ballance Ministry in New Zealand, it seemed worth while to try the experiment of developing a method of employment which should avoid the evils alike of contracting and of direct employment on day-wages. He began by abolishing sub-contracting. Then he struck at contracting itself. During his life on the goldfields of Westland he had seen how well diggers worked together in small parties. It was their custom to join in twos and threes to work out some claim; sometimes the party would be as large as seven or eight. These groups were even capable of electing a head and obeying him. The success of the co-operators was mainly due, first, to free selection—they were voluntary partners; second, to the chance of a good though uncertain return for their labour. Mr. Seddon, then, decided to adopt this system of small groups of partners, and henceforth to construct public works by letting little contracts to parties of workmen. All material was from that time bought direct by the Department of Public Works—a change the results of which have been excellent. Now, to begin with, each work is planned and measured, and fair prices fixed for

the different portions. It is the duty of the engineers to see that the cost is no greater than it would have been on the average under the old system of big contracts. There is no tendering; the men can take a piece at the department's price, or can leave it. Occasionally the outcome is as unexpected as under the old system. A party find themselves committed to a job at a price at which they cannot make a living wage; or they are lucky in hitting upon a soft piece, and earn double pay for a few days or weeks. The advantage of the small contracts, however, is that these inequalities do not last long or involve either a large gain or a heavy loss. A miscalculation by an engineer means a difference of pounds, not of thousands of pounds.[1]

Under this system of co-operative contracts, as they are called, from 2000 to 4000 men on the average have been employed by the Government of the colony for the last ten years. The departments for which they work are those of lands and public works, but most of them are engaged at the offices of the department of labour. When the demand for employment is greater than the supply, applicants who have been out of work are taken on before those who have just had a term of Government employment; married men are given a preference over bachelors; and men who live in the neighbourhood of the work over men from

[1] In 1902 the Minister of Public Works in New South Wales sent his principal engineer to investigate the New Zealand system, and report on its suitableness for adoption in New South Wales. The report was adverse to its adoption. The grounds given were that occasionally the earnings of co-operative contractors were very high, and occasionally very low (21s. 4d. and 1s. 3¾d. a day were quoted as extreme cases); that inferior men were sometimes employed; and that in the engineer's opinion it was better to employ only first-rate men at good day-wages and relegate inferior men to relief works. I need only point out that one of the objects of the New Zealand system is to give second-rate men a chance.

a distance. Other things being equal, claims for work are settled by ballot. Thus efforts are made to give the work to those most in need of it; but no political favouritism is tolerated. I am aware that the charge has been made in England in the plainest terms that employment on the public works of New Zealand is simply a reward for political hangers-on. I also know how false this charge is. The officers of the departments concerned neither know nor want to know what workmen's opinions are; it is enough that the men are not criminals or impostors, that they need work, and are prepared to go where work is to be had. It is one thing for an unemployed workman to fancy that loud professions of Progressive faith may help him; it is another for him to find that they do. Such a thing as the boycotting of any man for holding Conservative opinions has never been known. The civil servants of the colony—numbers of whom are, I daresay, rather Conservative in their views—are not at all likely to lend themselves silently to any such practice.

Nor do these co-operative workmen answer to the description of "State paupers"—a term which has been spitefully applied to them. In bad years many of them may be penniless when employment is first given them. But the public works of the colony are not carried on for their sake, but to develop the country and promote settlement. The few special works subsidised in 1893 and 1894 to provide for the unemployed were as a rule undertaken or managed by local bodies, and were not constructed under the co-operative system.

Where men without money are sent to public works many miles away, their fares on the State railways

are paid, as already mentioned, and when they reach their ground they may be furnished with tools, tents, and a supply of food. All this must be repaid by instalments out of their earnings. Then the process of forming groups and taking sections of work begins. The men are their own contractors. They make up parties of from six to eleven. Each group chooses a headman, or two headmen, with whom the department deals, and to whom the money earned by the party is paid when the job is done and measured up. These headmen may be changed at any time and others elected. The Government retains the right of turning off any man who makes himself a nuisance on the works; or it may eject a whole party of men if they are found to be loitering and playing with their work in order to make out a case for a higher price, or because they are loafers or drunkards. Eight hours is considered to be a working day, and men are not encouraged to work longer. Their earnings are paid to them without any deduction, but if complaints are made by neighbouring tradesmen that the men owe them for supplies, payment will be withheld for a few days to enable the storekeepers to put pressure on their debtors. Where the work is being done in the wilderness, and the men have homes at a distance, facilities are given them to remit money to their wives. Thanks to time-sheets, engineers' reports, and monthly accounts, the public, the workmen, and their friends may know the ins and outs of the co-operative contract system. No secrecy is possible, and none is sought.

On the departmental officers these co-operative contracts bring more buying of material, more calculation, more clerical work, and in particular more

troublesome supervision. The small parties have to be watched, their work has to be measured, their material, and sometimes their tools, provided. Shirkers and grumblers have to be dealt with, and men with grievances, who may now and then bluster and threaten to complain to this minister or that member of Parliament. When they do complain they usually find that ministers are not quite so pliable as newspapers have made them out to be, and that even members of Parliament often have a backbone and some sense of fairness. Except in reckless newspaper articles, the co-operative contract man is neither a terror to frighten civil servants nor a loafer earning ridiculous rates of pay by making a pretence of handling an axe or a spade for a few hours daily. In practice, like most pieceworkers, he is no dawdler. On the average his earnings are found to be something between 7s. 6d. and 8s. a day.

The broad result is, that though the State does not pocket the contractor's profit—that goes to increase the men's earnings and in paying for supervision—it secures better material, does not have its work scamped, and retains a complete control over its business. The men earn more, may count on being paid every shilling they earn, and are not driven by gangers or bilked by bankrupts. The taxpayer finds that his public works are well done, and cost no more under the new and juster system than under the old. In simple road and railway work the system has proved satisfactory, and not difficult to control. In more complex work, such as the erection of large public buildings, it has not been so easy to apply it. Yet even there it has been used and has not failed.[1]

[1] Some readers will be struck with the likeness between these co-operative contractors and certain phases of the Russian "artels." The handiest account

Outside the co-operative contracts, State employment of manual labour in New Zealand is governed by principles which are briefly set out in the "Public Contracts Act, 1900." This regulates every contract above £20 for the construction or repair of any public work, or the performance of any public service in which skilled or unskilled manual labour is needed. It applies to contracts entered into by local bodies as well as to those of the Government. Public contractors are bound by it to pay such wages as are generally accounted usual and fair in the locality where the contract is carried out, and their workmen are to enjoy the privilege of an eight hours day. Contracting out of the benefit of the Act is expressly prohibited. None of the conditions of labour observed are to be harder than those laid down by any award of the Court of Arbitration in force at the time, and dealing with the same description of labour.

In New South Wales, though the public works department employs much labour directly, the ordinary contract system was in use up to the end of last year. In 1900 Mr. O'Sullivan fixed 7s. a day as the minimum wage of able-bodied, competent labourers

of the artels I know of is Mr. Schloss's, but an article in the *Saturday Review* of 15th March 1902 gives the following summary of the features of the institution :—

Wherever a group has a common economic interest to look after, or some common work to carry out, an artel is at once formed. The artel differs from all co-operative societies in Europe, for it is a natural form of popular life, and owes nothing to theory. A free union, its membership is voluntary, each member being free to withdraw at the end of the season, or upon the conclusion of the particular work for which the artel was formed. It has no legal authority over its members, its only protection against those who break the rules being expulsion. Artels present endless variety in their size and economic characters. Some are the permanent owners of small workshops ; others are but temporary associations of workmen from different provinces, who, engaged in the various industries in the larger cities, settle in a house together, keep a common table, and share all expenses. Others again include the men of one village, all following the same trade, who sally forth in early spring in search of work, only returning to their homes in the autumn. Contractors invariably prefer to negotiate with artels. Every artel accepts work and makes engagements as a body, the work undertaken being distributed or divided amongst the members. Incompetency and laziness meet with no toleration. Artels flourish all over European Russia.

directly employed by Government. The same energetic minister laid down certain fair labour conditions to be observed henceforth by all Government contractors. The first and main condition is that the following schedule rates are to be paid all workmen by contractors and sub-contractors :—

Trade.	Rate.	
Carpenters	Union rate, per day.	
Masons	,,	,,
Bricklayers	,,	,,
Plasterers	,,	,,
Blacksmiths	,,	,,
Boilermakers and Riveters	,,	,,
Fitters	,,	,,
Painters	,,	,,
Plumbers	,,	,,
Shipwrights	,,	,,
Copper and Brass Workers	,,	,,
Moulders	,,	,,
Engine Drivers	7s. 6d.	,,
Miners	8s.	,,
Workmen not included in the foregoing list	7s.	,,

Permission to sublet does not discharge a contractor from liability to see that these rates are paid. In the case of any dispute as to the classification of workmen, the decision rests with the engineer or architect supervising the work on behalf of the department. In all classes of labour forty-eight hours is to be considered a week's work. The rules as to payment for overtime are to be those current in the trade and district concerned for the time being. The necessity for longer hours than the weekly forty-eight is recognised in certain cases. In determining these the Government supervisor has again the last word. A peculiar proviso stipulates that no contractor may employ an undue proportion of men

who have not been domiciled in the colony for six months. This, of course, is intended to prevent the importation of cheap labour by contractors, and also to hinder the good conditions and wages from attracting unemployed from outside. In Victoria, as in New South Wales, 7s. a day has been fixed as the minimum wage of adult labourers in the public employ. Stories have been circulated that this rule has caused a scarcity of labour in certain farming districts by tempting workmen to flock into the towns. In answer to this it ought to be enough to point out that most of the public works constructed in Australia are in the country, often very far from towns. That 7s. a day for navvy work should be attacked as a rate high enough to be unsettling and demoralising is, however, a piece of evidence to prove how exaggerated are many of the statements current in Europe about the excessive wage demanded and secured as a matter of course by the ordinary colonial labourer.

In December 1901 Mr. O'Sullivan announced that in future day-labour was to supersede the contract system on public works. The grounds officially given for the change were much the same as those advanced for the adoption of co-operative contracts ten years earlier in New Zealand. They were, that the day-wage system gave better and more durable work, and power to alter designs without extra cost; moreover, it saved litigation and claims for extras. In order to provide a safeguard against employing inferior overseers and labourers, the Minister for Public Works stated that the selection of foremen and workers would be handed over to a board composed of heads of Government departments. To this board also would be referred all applications for increased wages and all protests against

dismissals. Accordingly in January 1902 the board was set up.

With a hearty wish that this excellent proposal may be successfully carried out, I close a dry chapter upon a problem which is at times found almost as difficult in colonies as in older countries.

APPENDIX

The Government Labour Bureau of Western Australia, which was set up in July 1898, has several noteworthy features. It appears to place a larger proportion of work-people with private employers—chiefly in country districts—and fewer in public employ than do the other offices. Its report for 1901 notes that 411 employers applied to the bureau for hands during the year. It is used by female as well as by male unemployed, and in 1890 and 1891 found places for two large batches of immigrant girls. Its annual reports, which are plainly worded and to the point, give much interesting information about the condition of labour in the western colony. Generally its methods are those followed in other bureaux. The following figures summarise its operations :—

Year.	Registrations.	Sent to Work.
1898 (six months) . .	1145	242
1899 . . .	1157	425
1900 . . .	1610	843
1901 . . .	2650	1112
Total . .	6562	2622

CHAPTER II

OLD AGE PENSIONS

Old Age Pensions in New Zealand[1]

Though dire poverty in New Zealand is almost confined to the aged, to disabled workers, to deserted wives and children, and to a few loafers, drunkards, and weaklings, still even the Fortunate Isles have not escaped the curse of pauperism. The State has not only to provide hospitals and lunatic asylums, but also to furnish what in the colonies is called Charitable Aid. Of £80,000 spent on public charity in 1900 three-fourths came out of rates and taxes. There are Old Men's Homes,—not unpleasant refuges,—a Reformatory for criminal children, and Industrial Schools for the children of parents destitute or untrustworthy. Over and above all this there is a system of out-door relief presided over by twenty-three district bodies called Charitable Aid Boards. These are elected by the various local bodies in their districts. Their business

[1] Authorities.—Acts of the General Assembly of New Zealand, 1898, 1900, 1901; "Regulations under the Old Age Pensions Act, 1898"; New Zealand *Hansard*, 1896-1901; *Reports of the Registrar of Old Age Pensions* (New Zealand), 1899, 1902; *Report of Old Age Pensions Regulations Committee* (New Zealand), 1901; *Review of Reviews*, November 1898, "Old Age Pensions in New Zealand," by W. H. Montgomery; Acts of the Parliament of New South Wales, 1900; N.S.W. *Hansard*, October 1900; Acts of the Parliament of Victoria, 1900 and 1901; Victorian *Hansard*; "Old Age Pensions in New Zealand," by W. Steadman Aldis, *Charity Organisation Review*, 1899.

is to levy a rate and to assess the proportion of this to be contributed by each local authority within their areas. Some Charitable Aid boards administer relief themselves; others hand it over to municipalities or other local councils. It is not pretended that this system of out-door distribution is flawless. Part of the money thus expended is found by the Central Government, which in 1900-1901 paid £33,000 to the Charitable Aid boards out of revenue, and the temptation to local distributors to overspend occasionally is, of course, strong. At the same time, even under a liberal system of poor relief, the bitterness of pauperism is keenly felt by the better class of aged poor. It is no comfort to them, when forced in despair to appeal to the Charitable Aid boards, to know that impostors are sometimes able to delude the officers or members of these bodies. Hence the proposal to pass an Old Age Pensions Law, unexpectedly as it came from the Government in 1896, found public opinion in the colony quite ready to entertain the question.

The passing of the Old Age Pensions Act in New Zealand is a curious example of the ease and speed with which a colonial democracy can, when it chooses to do so, make trial of an important economic experiment. It was but six years ago that the first Bill to establish Pensions was brought forward in the New Zealand Parliament. It was certainly not a burning question when, in the session before the general election of 1896, the Government, boldly moving in advance of public opinion, suddenly brought down a Bill containing a pensions scheme. Of this measure it is enough to say that it proposed to allow 10s. a week to any person whose income—other than from personal exertion—was less than £52 a year. Hastily drawn, and brought in

more with the hope of asserting the principle involved than with any expectation of putting this principle into immediate practice, the measure was indeed read a second time with no great difficulty; but when details came to be discussed in committee, the House of Representatives was found to be at sixes and sevens about them. An amendment was carried in favour of a universal pensions scheme, whereupon the Premier dropped the Bill.

A general election took place immediately afterwards, and the principle of Old Age Pensions was discussed on the platform, usually with approval. Very little attempt was made to canvass the details of this or that scheme. For the most part the candidates were wary of doing more than undertaking to support a satisfactory scheme, the financial burden of which should not be beyond the colony's power to bear. Still, these professions of faith strengthened the Premier's hands. Moreover, by the end of 1896 an industrial revival which had begun in 1895 was evident and admitted. Under this cheering influence the colony regained hope and the Progressives confidence in their own policy. They took courage for further experiments.

The Government survived the elections, and the Old Age Pensions Bill duly reappeared in the session of 1897. This time it was in a more practical form, and did not propose to give £1 a week to elderly men who might be earning considerable incomes. The controversy which ensued gradually shaped itself into a debate upon the respective merits of a general contributory scheme on the one hand, and, on the other, an arrangement under which pensions should be freely given to a selection of the necessitous aged. The Government's scheme — to be presently described —

belonged to the latter class. In the session after the general election the Bill embodying Mr. Seddon's plan was passed by the Lower Chamber. But by the nominated Upper House it was received with little favour, and was speedily wrecked by a hostile majority there.

In 1898 Mr. Seddon made his third and final attempt. The Old Age Pensions Bill was once more fully debated in the Lower House, and various amendments were carried — designed, for the most part, to defeat imposture, exclude the undeserving, reduce the amount of pension to be paid, and still further restrict the class entitled to State aid. The Bill made, indeed, a very rough passage through the Lower House, where criticism was strong and even bitter, and the struggle culminated in a committee discussion of many days' and nights' duration, largely taken up with talking against time.

In this, however, the Premier's opponents would appear to have played into his hands. Mr. Seddon's supporters stood steadily by him, and the prolonged and obstinate nature of the struggle naturally increased the credit claimed for the victory. The Opposition, after exhausting the resources of ordinary debate, settled down into a stubborn attempt to resist the Bill at every stage. The contest in committee ended in an uninterrupted sitting of nearly ninety hours. Over 1400 speeches were made, chiefly against the Bill, and one member spoke ninety-three times. It is, however, in conflicts of this kind that the Progressive Premier is most apt to show conspicuous strength. His dogged resolution, robust physique, and shrewd self-possession have brought him ere now through many a tussle. They stood him in good stead in the battle over the Old Age Pensions Bill, and ultimately, shorn of certain

excrescences, and modified both in scope and future duration, the measure emerged from the mêlée.

This time success in the Lower House was not doomed to be neutralised by failure in the Upper. New appointments in the Council had strengthened the Liberals there. The Bill's troubles were virtually over. The Legislative Councillors were not prepared to drive the Government to extremes by again defeating it as a whole. They might, perhaps, have been willing to amend it for good or ill, but their power to do this was taken away by a decision of their own speaker, who ruled that the measure was a Money Bill, and therefore must either be rejected or passed without alteration—a decision likely to form an important colonial precedent. Passed without alteration, then, it was, and was placed on the statute-book in the month of November 1898.

Of the changes made in the Bill in the Lower House the most important was that by which for three years, and three years only, the Government was authorised to pay the money without special parliamentary vote. After that it would be necessary either to vote money annually or to pass an amending Act continuing the Government's authority to pay. The meaning of this is that the Old Age Pensions Act had a three years' life guaranteed it. In 1901 the whole question was to come up for reconsideration, and Parliament would have to decide whether it would alter, continue, or repeal the existing law. The friends of the measure defended this reconsideration of the Act three years after passing as a reasonable and proper financial safeguard. The colony was so prosperous in 1898 that £350,000 was paid out of ordinary revenue to aid the construction of public works to develop the country—such public works as in Australasia are usually constructed out of loan

moneys. But there was, of course, no guarantee that it might be as easy to find the sum needful for Old Age Pensions in 1901 as in 1898. Moreover, after three years Parliament would be in a fair position to judge the moral and social effects of the scheme. On the other hand, the Opposition thought they saw in this three years' limit to the Act a clever electioneering move on the part of their astute old foe the Premier, and they pointed out that by it he would keep the most popular of his measures alive as a hustings cry when the House had to face the country in December 1899. It certainly came to pass that at the elections in that month the Government triumphed by a sweeping majority, and the record and attitude of candidates on the Old Age Pensions question were matters on which many thousand electors kept an attentive eye.

Generally speaking, the opposition to the Bill, as expressed in the debates, seems to have been based on the contention that it was likely to burden the colony needlessly and increasingly, sap the springs of self-reliance, and tax the thrifty for the benefit of the improvident. The arguments of its opponents are best found condensed in the following amendments which were moved on the third reading of the Bill by Mr. William Rolleston, one of the Opposition's chiefs, and were defeated by ten votes :—

(1) That the Bill is not really an Old Age Pensions Bill, but a form of Poor Law, subjecting poverty to degrading conditions, and failing to give real or substantial relief without inflicting the stigma of poverty on its recipients. (2) That its provisions are not in accord with the terms of the preamble, there being no separation between the deserving and the undeserving, or between the industrious and the thriftless and improvident; and that no satisfactory guarantee is afforded that the recipients of pensions will be those who have contributed by their labour and skill to open up

the resources of the colony, or who have made an honest endeavour to make some provision for old age. (3) That, in the opinion of the House, it is desirable to remodel the Bill, establishing pensions on a contributory basis, and making provision for the supplementing by the State of annuities and allowances earned either in the Government Life Insurance Department or in any approved friendly society, trades union, or other organisation.

On behalf of the Act supporters dwelt with considerable force upon the ups and downs and inevitable accidents of colonial life. They pointed out that in New Zealand, as in all countries occupied chiefly in growing raw material for Europe, times of prosperity are invariably followed by periods of contraction and depression, when the savings even of the most thrifty of the poorer classes may be inevitably swallowed up in struggling with unemployment. Much stress, too, was laid upon the uncertainty of the investments into which work-people are constantly tempted to put their small savings. The House was reminded of notorious instances in which the very thrift of careful and provident workers had led to their ruin by exposing them to the calls levied by the liquidators of bankrupt financial companies in which they had invested their money.

Examples, too, were cited of the earlier colonists who were too often left half crippled and disabled in old age through exposure to the hardships of pioneer life. There were, of course, speakers who did not hesitate to suggest that the virtues of thrift in the case of married work-people entrusted with the rearing of families might easily be exaggerated, inasmuch as to bring up half a dozen children decently required a bread-winner's whole earnings. Contributory schemes were waved aside as complicated and unworkable.

Moreover, how were the indigent who had already grown old to be dealt with under contributory schemes which presupposed regular payments for many years? The warning that a financial burden was being laid on the revenue which the taxpayers might find it hard to bear was cheerfully met by assertions that the colony was bearing its taxes lightly and could bear more if need be.

Mr. Seddon's Act

Now for a sketch of the New Zealand Act as it was in the shape it finally took in 1898.

At the risk of being taken to task by eminent authorities, I would suggest that old age pension schemes may conveniently be divided into three classes. First comes the socialists' ideal of a universal and comfortable provision which shall supersede the necessity for petty thrift; next come the various schemes, more or less orthodox in principle, but complicated and burdensome in their nature, for the reward and encouragement of thrift and self-denial; in the third class may be placed the humanitarian proposals, the humble yet not ungenerous aim of which is to soften the bitterness of poverty to those aged who, while unfortunate, are not wholly undeserving.

Mr. Seddon's Old Age Pensions Act comes under the last of these heads. And though neither so alluring as the first nor so severely correct as the second, it has the advantage of being much less visionary than the one and much more sympathetic than the other. It is satisfied to offer help to those who need it most; and though the scale of its assistance is modest—as befits a scheme the burden of which falls entirely on the taxpayers—the aid it proffers to the aged of both

sexes is not so scanty as to seem a mere mockery. Nor is it hedged about with needless, baffling, and irritating conditions. There is no reason to suppose that any considerable number of persons justly entitled to avail themselves of its aid are being shut out by legal technicalities or narrow administration. On the other hand, the pension is not given carelessly to the first comer. The law-makers of the colony have, at least, been at some pains to guard against that.

Such as it is, the experiment is a serious attempt, made by the inhabitants of a small but intelligent community to solve the great problem of age-cum-poverty. But to English students the chief value of the New Zealand pensions system is simply that it exists. Its scheme is something more than the vision of a philanthropic dreamer or the theory of a bookish economist. It is actually at work. The law only came into force on the first day of November 1898; but the machinery was so quickly set in motion that the first batch of pensions was paid in March 1899.

The Government wasted no time. A registrar was appointed in the November in which the Act was passed, and deputy-registrars in the following month. In December, too, the Old Age Pensions districts were proclaimed and gazetted, and notices issued throughout both islands that forms of claim were to be had at the post-offices. The regulations under which the Act was to be worked were promptly drawn up and published. Those for whose benefit it had been passed at once hastened to take advantage of it; thousands of applications came in from the aged poor on all sides; and as early as the month of January 1899 the police magistrates, whose novel duty it was to hear and determine these applications, were busied in doing so,

and in disposing of the cases of batches of claimants. In New Zealand the end of March is the close of the financial year. The Act has now been in use through three complete financial years. While, therefore, it is still somewhat too soon to speculate with any certainty about the general effects, financial and moral, that the system is likely to have upon the people of the colony, it is not too soon for an explanation of considerable interest to all students of Old Age Pensions.

As already said, the Act is not universal, nor does it involve any scheme for payment of contributions. Whereas the population of New Zealand all told is a little over 840,000, the number of persons entitled to receive pensions at the end of March 1902 turned out to be 12,776. That is less than one-half of the aged of all classes in the colony. In New Zealand, it may be mentioned, the persons of sixty-five years of age and upwards amount to a shade over 4 per cent of the population. The scheme embodied in the Act provides for an annual payment to the deserving poor of the age just mentioned. Every old man and old woman who has lived in the colony for twenty-five years continuously is to be entitled to a State pension, the maximum of which is £18 a year. But the provisos and conditions with which this allowance is hedged round are such that not much more than 40 per cent of the aged are at all likely to be found entitled to it. Nor did those who passed the Act intend that any larger proportion should be. Its object is to confine the State's aid to those who require it most, and also to achieve, as far as may be, that most difficult of tasks, the separation of the deserving poor from the undeserving.

To begin with, the full £18 of pension is only paid to those whose yearly income from all sources is less

than £34. No pension at all can be claimed by any one with an income of £52. From £34 to £52 the pension diminishes by eighteen steps, £1 being taken away for every £1 of income. Old women have exactly the same title to a pension as old men. Very little favour, moreover, is shown to holders of even small amounts of property. An applicant for a pension may indeed own £50 above and beyond all debts; but for every £15 of property he may possess over that very moderate sum he forfeits his right to £1 of pension. The possessor of an estate of the value of £320 is, therefore, entirely excluded from the ranks of those entitled to the State's help. A claimant who is getting free board and lodging from some friend or relative is regarded as having an income of £25. Paupers living in State homes are entitled to pensions, but unless they leave the homes their pensions are paid to the charity authorities to be set against their maintenance. Poverty, again, is by no means the sole attribute which the pensioners must have. Under the Act of 1898 they must not have been absent more than two years altogether from New Zealand during the quarter of a century before making their application for a pension. They must be subjects of His Majesty, and, if naturalised aliens, must have been naturalised for five years. The Government, however, in an un-Kruger-like spirit, presently proposed to relax the five years' stipulation in the case of aliens otherwise qualified, and did so. Precautions are natural in the case of a small colony solicitous to guard against any sort of inroad of poor and elderly people, who in their wish to take the benefit of the local Pensions Scheme would very soon overload it. One New Zealand precaution, however, will seem scarcely natural to the English mind. No Chinese,

whether British subjects or not, are, under any circumstances, to have a right to a pension. So finds expression the mortal abhorrence with which the colonist views any possibility of an Asiatic influx.

The Maori, the brown natives of the colony, have the same rights under the Act as the whites; nor have they been at all backward in asserting them. By 30th June 1899, 1301 claims had been put in by Maori, 580 of which had been granted. Ten half-castes had also applied for pensions, four of them successfully. Of the fortunate applicants, 256 Maori and 2 half-castes were females. At the end of March 1902, 1055 Maori were drawing pensions.

With the aliens, nomads, and Asiatics thus excluded, criminals, drunkards, wife-deserters, and those living a scandalously and notoriously immoral life are likewise shut out. An ex-convict who has suffered five years' penal servitude during the quarter of a century aforesaid is disqualified; so is the offender who has been imprisoned for four months for an offence punishable with one year's imprisonment, provided the punishment has been inflicted within twelve years before he applies for a pension. Four convictions for minor but "dishonourable" offences are to be held equivalent to a four months' imprisonment. A wife who has deserted her family for six months is placed under the same ban as an absconding husband.

The would-be pensioner, moreover, must bring evidence to prove that he or she has for the previous five years been leading a sober and reputable life, and is of good moral character. This must be shown to the satisfaction of the magistrate, by whom all applications for pensions have to be heard in open court. In the debates on the Bill in Parliament it was this portion of

it which especially furnished food for the scoffers. "A man will have to be a saint to earn a pension in New Zealand!" said one member. "When a man has reached sixty-five, it is high time for him to be a saint," retorted another honourable gentleman.

Finally, when the claimant has successfully run the gauntlet and obtained a pension certificate, he may at any time forfeit this should he be convicted of a serious crime, or be proved to be living a drunken, riotous, or spendthrift life. In the latter case, his pension, if not forfeited, may be ordered by the Court to be paid over to some relative, official, or clergyman, to be doled out to him at the trustee's discretion. No pensioner may assign or grant a legal charge upon his pension.

The office of the Registrar of Pensions is in Wellington. In each of the other larger towns some civil servant is made a deputy-registrar, and to him all claims have to be sent in. They are examined and sent on to the local magistrates, who, in their turn, appoint a certain day for hearing them. On that day, accordingly, the Courts are thronged with applicants, whose cases are gone into and disposed of without needless delay.

The hearing of the cases has to be in public; on this point the Act leaves the magistrates no discretion. Some outcry has been raised against this publicity. It is urged that modest need is often deterred from making a just claim through a natural shrinking from facing the exposure of its poverty in open court. On the other hand, it is suggested that brazen-faced imposture laughs at the more or less cursory examination of the magistrate. On the whole, however, the first three years' experience of working the pensions law does not seem to give much warrant for these apprehensions. Here and there, possibly, there may be instances of nervous

folk unable to muster up resolution enough to face a public ordeal. But the number of applications altogether has considerably exceeded what was expected. Seeing that 15,000 claims have been granted, either in whole or part, it does not look as though many persons with a fair claim have been afraid to make it. And the outcry against secrecy, had any been attempted, would assuredly have been great and just.

The taxpayers had been promised that the Act would be cheap to administer, and, so far, it has proved so. No new officials are needed for it. Most of the duties it involves are assigned to civil servants already in the colony's pay. Here are the figures showing the cost of the new office for the year ending with March 1902. They are so modest that they deserve to be set out in full :—

OLD AGE PENSIONS OFFICE

Salaries—					
Registrar	£100	0	0		
Deputy-Registrars	225	0	0		
				£325	0 0
Other charges—					
Clerical assistance	£1,338	0	0		
Contributions to Post-Office	500	0	0		
Travelling expenses and interpreters' fees	190	0	0		
Contingencies	138	0	0		
Rent of Offices	61	0	0		
Forfeited Pensions, etc.	41	0	0		
				2,268	0 0
Total				£2,593	0 0

On 18th October 1900, while the Act had still a year to run, Parliament passed an amending Act, to make the original law permanent instead of for three years only. A clause of it dealt with cases in which a husband and wife each claimed a pension. It

was stipulated that the pensions of such claimants should not be more than enough, when added to their private incomes, to give them £78 a year altogether. The time during which colonists applying for pensions might have been absent from the colony without forfeiting their right was extended from two years to four years, provided they had lived in New Zealand for twenty-five years altogether. Conditions were made easier for applicants who were naturalised aliens; Chinese and aliens not naturalised were still excluded. One rather quaint section enacted that no governing body of any charitable institution should henceforth be allowed to refuse to admit any person on the ground only that he was a pensioner. In case of admission the pension, of course, becomes the property of the governing body. Another clause threw upon the Pensions Registrar the duty of instituting an inquiry before a magistrate whenever he had reason to think that a pension certificate had been improperly obtained. During such inquiry the payment of the pension in question was to be suspended. In October 1901, it may be noted, a pensioner in the Auckland district was prosecuted for unfairly obtaining a pension by divesting himself of property for the purpose, was fined, and had his certificate taken away.

Another year's experience showed the necessity for a second amending Act, and in November 1901 it was passed. Though brief, it is interesting and important. Under its provisions, whenever an application for a pension or a renewal is made to a magistrate, the clerk of the magistrate's court must notify the deputy-registrar of pensions. This official, or an agent appointed by him, has the right to attend at the hearing of the application and examine the applicant. He may also examine any bank officer or other person able to throw light on the

applicant's means, and his questions must be answered. If at the hearing the magistrate finds that the applicant has transferred property to any person, he may inquire into such transfer. If, at the death of a pensioner, it is discovered that he or she was possessed of more property than pensioners are allowed to own, the Crown shall recover double the amount of any pension improperly enjoyed by the deceased. Clause 7 strikes at the class known in America as pensions' agents by making it an offence for any person to receive money for procuring any pension; and a sentence pointedly provides a special penalty for licensed Maori interpreters guilty of this procuration. Another clause proposes certain paternal safeguards in the case of Maori pensioners.

A Pensions Law in Operation

In the second week of the month of January 1899 the public hearing of the first applications for pensions began in the Magistrates' Courts throughout the colony. Each applicant had to come before the Bench and give satisfactory proof that he or she was past sixty-five and of good character; and also answer any inquiries the Court might make as to the amount of property in the applicant's possession. The examination does not seem to have been a very terrible process. The scenes in the courts, indeed, though in their way pathetic, were not rendered painful by any harshness or want of consideration shown by the magistrates or Government officials. A newspaper is responsible for a story of a kind-hearted magistrate, who, in his anxiety to spare the feelings of a certain very respectable old lady, shirked putting to her the direct question, "Have you ever been in gaol?" and mildly asked instead, "Have you

ever been in any trouble ?" Smiling pleasantly on the Bench, the applicant answered, "Well, I had a sprained ankle some time back and no one in the house with me !"

One magistrate, who had 693 cases set down for inquiry before him, announced at the outset his intention of disposing of them at the rate of fifty per diem. Another, less energetic, was satisfied to take them in batches of twenty. The actual rate at which they were heard seems to have been about thirty a day. The courts, on the days of hearing, were an odd, and rather touching sight. The lame, the halt, and the blind were there in evidence. Here was some white-bearded pioneer, crippled with rheumatism contracted in the wet New Zealand bush ; there a luckless gold-seeker, maimed by some mining accident ; or a sempstress, poverty-stricken through failure of her eyesight. On the whole, however, the old people seemed of good physique and well fed. Almost all looked decent folk : hardly any but were clean, fairly intelligent, and neatly clad. The comfortable appearance of many was explained by their being supported by the earnings of grown-up children. Others had sallied forth from State charitable institutions, called Old Men's Homes. A number were still earning a wage, often small and precarious. Generally speaking, the applicants seem to have been frank enough about themselves. Some did not know their age, a difficulty which, however, was usually surmounted by a little patience and the examination of documentary evidence. Several candidly admitted the date of their birth, and retired silent and crestfallen on it being explained to them that they would have to wait a few months more before reaching the legal age. One old fellow could not say how old he was, but was certain that his married daughter was forty-eight, and

so on. The calculation of minute incomes produced some amusement. The proud and affluent possessor of £39 a year of his own retired only half-satisfied with a certificate for a pension of £13, and almost envious of the entirely incomeless woman to whom the full pension of £18 was adjudged. Clergymen, former employers, and neighbours were brought in as witnesses to character—policemen also, occasionally. The evidence of any neighbour or friend of good standing and repute was usually accepted as sufficient. The police, at first, watched the cases in court, and, as a rule, their presence was enough to keep fraud in check. A significant feature was the tiny amount disclosed of dire and utter poverty relatively to the whole population of the colony. Poor people there were; but there was little trace of the sordid, dismal social wreckage of the Old World—the rubbish and "tailings" of urban society. Were the figures similar in proportion in England, the financial problem of Old Age Pensions in the Mother Country would be simpler than it is.

In Christchurch, one of the four larger towns of the colony, out of the first 917 claims presented in court the magistrate granted 759. Fifty-six were rejected, 80 were adjourned for further evidence, while 21 applicants did not put in an appearance. The absence of some of these last was, possibly, a tribute to the utility of the presence in court of the police. In Auckland, another large town, the newspapers noted with approval that the magistrate had shown no slight amount of pains-taking caution in investigating claims. The following paragraph and table extracted from the *Otago Daily Times*, the chief newspaper in the town of Dunedin, show how the process worked out. The reader will notice the large number of pension-claimants of Scotch

birth. That, however, does not imply that Scotchmen at the Antipodes are less prudent or fortunate than elsewhere. It is explained by the origin of the settlement of Otago, of which Dunedin is the capital. Otago was colonised half a century ago by a band of Free Kirk immigrants who left the old land in consequence of the great Scottish Church Disruption.

Up to the present time (1899) Mr. E. H. Carew, S.M., has granted 437 pensions, of the total value of £7443 per annum, the average amount of a pension being £17 : 0 : 7½. He has also disallowed 40 claims, and partially dealt with a considerable number of others. Of the 437 to whom pensions have been granted, 268 are males and 169 females. England was the birthplace of 171, Scotland that of 174, while 78 came from Ireland, and 14 from other countries, including Wales, France, Germany, America, Australia, and Tasmania. Between the ages of 65 and 70 (inclusive) pensions were granted to 221 persons; between 71 and 75, to 129; between 76 and 80, to 60; and over 80, to 27 persons. The following table shows the number and amount of the various pensions and their total value:—

Pensions.			
377	at	£18	£6,786
3	„	17	51
3	„	16	48
5	„	15	75
6	„	14	84
10	„	13	130
4	„	12	48
5	„	11	55
4	„	10	40
2	„	9	18
3	„	8	24
4	„	7	28
3	„	6	18
5	„	5	25
2	„	4	8
1	„	1	1
Total 437			Total £7,439

This hearing of pensions claims in open court had one undoubted result. It affected public feeling throughout the colony by bringing home to the understanding and conscience of the people everywhere the afflictions of poverty-stricken old age. Had most of the applicants obviously belonged to the scum of the community, the result of their appearance in courts might have been repulsive rather than touching; but the contrary was the case. Dirt, rags, and the worst forms of moral grime and degradation were very little in evidence. The aged poor of the colony were found to be, as a class, emphatically decent rather than repellent. Their answers to the official questions put to them were more often marked with simplicity than with cunning. The assembling of these bands of aged and unlucky people in the magistrate's court to ask for the very moderate help granted them in the evening of life has furnished a series of object lessons far more eloquent than any number of speeches and articles. There, in concrete form, has been exhibited the tragic union of old age and misfortune, one of the most pathetic sights which can appeal to a nation's conscience. The spectacle of these survivors of the rough pioneering days of early settlement,—these unlucky toilers along the hard road of colonial life,—has probably done more to ensure at least a long and careful trial for the Old Age Pensions Act than many years of argument.

The first report issued on the working of the Act dealt only with the five months between 1st November 1898 and 31st March 1899. From this it appears that the number of pensions granted during the first three months of 1899—the first quarter during which pensions were granted—was 7847, entailing an annual

charge on the revenue of £128,082. The average pension granted was £17 : 2s., or 18s. below the maximum. Thirty-eight pensioners did not live long to enjoy their good fortune, for they died before their first quarter-day came round; six others had their certificates cancelled. Several instalments of money fairly due were forfeited owing to mistakes made by pensioners. One woman who was blind determined to save up her monthly pittance till enough had accumulated to pay for an operation on her eyes. To preserve herself from being tempted to spend her pittances, she treated the Pensions Office as a bank, and did not draw her allowance, believing that it could lie there to her credit. Not until several pounds had been thus forfeited did she discover that under the Act she was bound to apply for her money with reasonable promptitude. This and some other hard cases Parliament good-naturedly met by re-voting the little sums which had been forfeited. Very notable was the cheapness of the machinery; during the first five months of operation the total expenses were returned at £510 : 8 : 1. In his first Report the Registrar wrote that he had found the administration of the law unexpectedly smooth.

In his second Report, that for the twelvemonth ending with March 1900, he had again very little fault to find. Writing on the 15th June 1900, he thought that the complete success of the Act really left him very little to say. The difficulties which pessimists had foreseen in the working of the measure had not been met with; its benefits were generally recognised. Very few pensioners had misapplied their money, and of 6178 fresh claims for pensions made during the second year, only 13 had been rejected on grounds connected with personal character. This, he thought, might fairly

be reckoned good evidence of the sound quality of the old age pensioners as a body. The third Report says nothing as to the working of the law. In the third year the rejections of renewal claims for causes implying misconduct were still only 28.

Whilst the head of the Pensions Office (Mr. Edmund Mason) had thus nothing but good to say of the law, one feature disclosed by the figures giving the cost of the Act must in fairness be noted. The outlay has been larger than was estimated by its friends during the discussions on it when it was passed through Parliament. The sum paid in pensions in the year ending with March 1901 had risen to £197,292.[1] Here is a table showing the increase in the number of pensions :—

NUMBER OF PENSIONS GRANTED SINCE THE ACT CAME INTO OPERATION; AND NUMBER OF DEATHS, CERTIFICATES CANCELLED, PENSIONS LAPSED AND IN FORCE AT END OF EACH YEAR

Year ended	Number of Pensions granted.	Number of Deaths of Pensioners.	Number of Pension Certificates cancelled.	Number of Pensions lapsed.	Number of Pensions in Force at End of Year.
31st March, 1899 .	7,487	38	6	...	7,443
,, ,, 1900 .	4,699	786	65	6	11,285
,, ,, 1901 .	2,227	815	227	65	12,405
Total . .	14,413	1,639	298	71	...

Of the 12,405 pensioners in March 1901, all but about 2000 had been granted the £18 pension in full; all but about 1300 were given at least £15 a year. The number of Whites over sixty-five years of age in New Zealand was found at the census of 1901 to be 31,353. Somewhat more than one-third of these were therefore on the Pensions list. Were a similar law in force in the United Kingdom, the proportion of pensioners would, of course, be very much larger. It

[1] The cost for the year ending with March 1902 was £207,468, and the number of pensions in force at the end of the year 12,776.

is, however, a heavy enough indictment against the modern industrial system, and against civilisation as understood in the Anglo-Saxon world, that in a young community, starting with such advantages, endowed with such wealth, and on the whole so sane and vigorous in mind and body as the New Zealanders, more than one-third of the aged should be almost or altogether without means at sixty-five.

Criticism

As might have been expected, the New Zealand Act has come in for some notice in Great Britain—notice in which praise and blame are mingled. In the van of hostile comment is an article in the *Charity Organisation Review*. Apart from a liberal ascription of unworthy motives to the Government and politicians of New Zealand, the complaints of the writer of this attack appear to be, first, that it discourages thrift; and second, that its cost is heavy and was underestimated at the outset. The second objection is true, but is not fatal; with the first I will deal presently. The assailant in the *Charity Organisation Review* has, however, another damning crime to set to the account of the Pensions Act. He has read in a New Zealand newspaper that, at a meeting of the Benevolent Trust at Dunedin, "the chairman referred to the case of a man who, having received his old age pension on the 1st of the month, left the institution, got drunk, was dreadfully knocked about, locked up, and fined fifteen shillings. The man had returned to the institution very penitent, resigned his right to the pension to the trustees, and has gone back to his ward."

"That this is no isolated case is tolerably certain,"

argues this *advocatus diaboli*, generalising with cheerful alacrity from this single and rather comical incident. I should not myself be prepared to condemn any orthodox poor-law—say that in force in England—on the strength of a single drunken pauper.

Writing in the London *Times* in October 1899, an anonymous correspondent made a wholesale charge of corruption against the New Zealand Government and the civil servants entrusted with the working of the Pensions Act. In his letter he drew attention to the large proportion of pensioners who had obtained certificates in the mining district of Westland, the constituency of the Premier. From the figures given it might indeed appear that Westland has about three times as much spent in it under the Act in proportion to its population as any other part of New Zealand. Next to Westland, noted the *Times* letter-writer, came the four larger towns of the colony. The inference clearly intended to be drawn was that these urban districts also were corruptly favoured, because, like Mr. Seddon's constituents, they supported the Government. Unluckily, however, for the whole of this line of argument, it so happened that the four large towns were just the parts of the colony where the Government was weakest—two-thirds of their members were in Opposition. Even now, after the extraordinary and crushing victory of the Liberals at the general elections in December 1899, the proportion of Government supporters is rather less amongst the members for the four large towns than elsewhere. The ratio of aged poor amongst Mr. Seddon's constituents admits of a very simple explanation. Westland is an old goldfield, where, in days gone by, alluvial mining yielded astonishing profits. For many years those alluvial fields have been returning an ever-lessen-

ing output, and the diggers who have clung to them hoping for a change of luck have been in many scores of cases left both without means and strength to work, in an old age often embittered by pain and disease as well as poverty. If any further answer to the anonymous accuser were needed it might be found in the integrity of the magistrates who are responsible for the grant of pension-certificates in Westland and in all other districts. It may be frankly admitted that the gold-diggers of the generation now dying out were not precisely the most provident and thrifty of mankind. But that is one thing: deliberate and corrupt favouritism by magistrates is another.

The amending Acts of 1900 and 1901 gave rise to interesting debates in the Upper and Lower Houses. These are worth reading, if only because the speeches were delivered in the light of some years' experience of a Pensions Act in operation — an experience rare as yet in a British society. Much of the speaking in 1900 turned upon minor points of detail, and much was devoted to an argument upon a proposal to restrict the rights of Maori applicants who might possess interests in tribal lands. This proposal, after eliciting a rousing protest from Mr. Tamé Parata, member for the Southern Maori, was withdrawn. A good deal of the discussion was, however, directed to the administration and general effect of the whole measure, and this portion naturally has much the most value for any one looking on from the outside. The students will find most of the more practical points of the criticism set out in the speeches of Mr. Herries and Mr. Atkinson. The Opposition, of course, laid stress upon the excess of the cost of the system over the original estimate. Here they were on firm ground, and no complete answer could

be attempted to their complaint, though the Prime Minister certainly showed that some of the increased expenditure was due to amendments put into the Act after the first estimate had been made. Captain Russell, the leader of the Opposition, stood tenaciously by his party's old counter-plan of a contributory scheme. More generally, however, members seemed to incline, at least in theory, to a free and universal system, such as that of Mr. Charles Booth. Next to its cost, the fault most often laid to the charge of Mr. Seddon's Act was that its effort to separate the deserving from the undeserving poor had not succeeded. It was stated that many of the pensioners had been notoriously spendthrift and careless, and that a number, without being confirmed drunkards, had wasted in drink money which they should have saved. It was pointed out that the Pensions Registrar had no staff to enable him to detect imposture, and that the taxpayers had no counsel present to protect their interests when the applications for pension-certificates came on before the magistrates. Sir J. Ward—Mr. Seddon's first lieutenant—hinted that it might be needful to appoint some watchman and guardian to see that imposition was not practised upon the State. Mr. Atkinson and others declared that very often the magisterial inquiry was a most perfunctory affair. As against this, Mr. Flatman, a country member of good repute, asserted that he was satisfied from personal observation that the magistrates did their work well and carefully. Another complaint made was that children wealthy enough to be able to support poor parents without any serious inconvenience took advantage of the Act to transfer this duty to the State. Most of the complaints were general allegations, but

Mr. Monk gave a specific instance of "a large family in which there were a number of sons well-to-do. Their mother conveyed the whole of the property to them. All of them were getting on very well in life, and some of them were actually wealthy; and the elder one, who is, by the way, a religious teacher, made the remark to me one evening, 'We can all find our mother in money —we are all willing to do so; but we are glad now to find that she is independent, and can go to the Government regularly and draw her pension.' She had a perfect right to do so. She had no property in her home; she had divided it amongst them. But why should she draw that pension at the cost of those who with great difficulty are making a livelihood and keeping their families in decency?" Government supporters spoke up strongly for the general good character of the pensioners. All round it was admitted that the Act had come to stay. In replying to his critics, Mr. Seddon put his foot down heavily upon all suggestion of a universal scheme. "We cannot afford it: if you make the scheme universal it means half a million of money, and the whole thing will break down." He hotly refused to entertain the notion that applicants for pensions should be confronted before the magistrate with a Government lawyer or agent who should have the right to cross-examine them; and not without spirit he vindicated the pensioners and his Act thus:—

> Amongst these pensioners there are some who have held very good positions in the colony, whose antecedents, whose characters, whose virtues and uprightness are equal to those of the honourable member who has cast this slur upon them. Misfortune has overtaken them. Probably at some time through their thrift and industry they have amassed means. Fire, flood, the elements,—that which is uncontrollable,—have taken it from them. Illness, misfor-

tunes of one kind and another, which come in spite of all precautions, assail them, and then all these things are swept aside. And, because in their old age they are found to be deserving, a pension is awarded to them. Each pensioner has virtually a warrant of character given to him by the magistrate. The conditions as fixed by the Legislature are such that whoever obtains that pension may be regarded as deserving, and the relatives and descendants of these old people who hold the pension-certificate may frame it in gold, and leave it to their posterity as a certificate of the character and good conduct of those who held it. There may be those who do not come up to the picture I have painted; but, as for the great bulk of the old people who have the Old Age Pension, their descendants may rightly claim that they are all that I have depicted. It is not to be said that because there are a few exceptions a slur should be cast upon the great bulk of our old age pensioners. Let any member of the House go anywhere when these pensions are being paid. Let him, for instance, go to Auckland on pay-day and notice for himself the class of people to whom these pensions are paid, and he will see at once whether they are the kind of people who lead dissipated lives, or whether they are good and honest old bodies. When I was last in Auckland one old lady said to me, in her gratitude, "If it had not been for what the State has done in granting me this pension, I would have been dead before this time. Now I have something to live for. I come here every month and get my little bit of money, and feel quite independent."

But while ready to fight for his policy, Mr. Seddon has not shut his eyes to plain defects. In 1901 it was evident to most observers that a certain amount of trickery was going on, and Parliament appointed a committee of inquiry. The investigations of this body did not go very far, but such evidence as it took went to confirm the impression that imposture, though not rife, was beginning to be something more than a matter of suspicion. The Prime Minister anticipated the committee's conclusions by bringing down the amending Bill referred to at the conclusion of the previous chapter.

In his speech on moving the second reading, Mr. Seddon frankly admitted the existence of a limited amount of fraud, and I will quote some of his words, because his straightforward candour affords the best hope that a few tricksters will not be allowed in the future to bring discredit on a good and humane law. Parliament, be it noted, passed the Bill with little amendment and no opposition.

Mr. Seddon said[1]:—

> The present law is defective in respect to applications that come before the Courts. While the magistrates may do their best, yet there are circumstances which have come to the knowledge of the Government which render it necessary that the Registrar should be represented when each application is being dealt with by the magistrates. I have had cases brought before me where the magistrates, owing to their time being limited, and to the fact that they have had to catch steamers and trains, have cut short their questions to the applicants. I will quote a typical case that has been brought under my notice. It was the case of an application from a Maori, and the Maori interpreter is brought up, and the magistrate inquires, "What you told the interpreter is true?" The answer was "Yes," and then the pension was granted.
>
> . . . . .
>
> I had a letter a couple of days ago from Christchurch. The wife of a pensioner died after the Act was passed; putting the two properties together, she had £600 in the bank. There is another case on the West Coast, where a pensioner died who had £500 in the bank.
>
> An Hon. Member.—What! on the West Coast?
>
> Mr. Seddon.—I can only say I do not think there is any part of the colony where the pensions have been so well earned as on the West Coast. I place these facts before the House. I think they are entitled to know that a state of things exists that ought to be seen to. I must confess the magistrates do not think this evasion is widespread; but the opinion held by the general public and by Members of Parliament differs very much from that of the

[1] New Zealand *Hansard*, vol. cxix. p. 673.

magistrates. These are the opinions held by the magistrates. But when you have a wholesale undervaluing of property, it shakes confidence in the whole structure.

. . . . .

Speaking of the native interpreters, he said that members of this race of middlemen had induced Maori to make claims for pensions which they would never have made if they had been left to themselves—

The interpreters have charged as high as £3 for a single application, and they have charged nothing under a guinea. In order to make these guineas they have gone round districts looking for old Maoris and getting them to make applications.

. . . . .

I may say that I do not wish to raise a debate, or bring up the policy or otherwise of what the Legislature has done; but it does weaken the position when we find abuses which members as well as I know are existing, and it is simply to remedy these defects that the Bill is brought forward. I have not gone too far, I think. I do not wish to sap the independence of the pensioners, or make deserving pensioners feel that we begrudge what is given to them; but it is necessary to stop abuses which I regret to say exist, and which give reason for adverse criticism, and which may have caused some people to think we should not have passed the Pensions Act at all. One case was given to me by a member the other day, which was known to himself, where an old couple divested themselves of a farm, gave it to a daughter who is married, and after this was fixed up they then applied for a pension; and they now live with the daughter on the land that was their own, and they drive in in a pony-chaise once a month to draw the money. Well, of course that is an isolated case; but when you have cases of that kind the sooner we lock the door and prevent that occurring in other cases the better for all concerned. Other places are copying our legislation, and I see in their proposals they are doing what we are proposing to do now—namely, taking steps to prevent abuses that exist.[1]

[1] In July 1902 the Acting Premier in his budget speech said—

In his last Statement my colleague drew attention to the necessity for carefully guarding against imposition, especially on the part of those who act for Native applicants. During the year careful inquiries have been made into suspicious cases, with the result that a number of certificates improperly obtained have been cancelled.

It has been objected that the Act excites no enthusiasm in New Zealand. Few novel and experimental Acts of Parliament do, at any rate in their earlier stages. It is more common for them to cause friction and to excite ill-feeling, which only gradually dies down as practice shows their administrators how to avoid mistakes. At the present time in New Zealand there is very little avowed antagonism to the broad principle of making some special provision for old age with the help and under the supervision of the State. That something should be done is admitted on all sides. With this admission, of course, is coupled criticism of the Government scheme — criticism certain points of which are worthy of careful study. The main objections divide themselves under three heads. First, stress is put upon the weight of the burden laid upon the taxpayers of the colony. Next, it is asserted that the tendency of free pensions will be to encourage imposture. Third, there is the familiar argument that the gift of pensions will discourage thrift and sap self-reliance.

The financial side of the question is, of course, more interesting to New Zealand colonists than to observers from outside. Still, as it must so nearly affect the success or failure of the Act, it calls for notice even here. The New Zealand Legislature, as already said, began by giving the Pensions Act a three years' life. In two years thereafter it was satisfied to make the law permanent.

Two hundred thousand pounds a year is a substantial burden. But a prosperous colony with a growing revenue can afford to be bold. Times are very good in New Zealand now. For the last eight years the Government has been able to pay a large sum

out of surplus revenue to aid in making railways and those other public works which in the colonies are usually paid for out of loan moneys raised in London. For the present, then, all the Treasurer will have to do is to impound a certain amount of his surplus on behalf of Old Age Pensions instead of transferring it to the fund for public works. The revenue of the colony exceeds £6,000,000, and, with anything like prudence in general expenditure, the task of finding £200,000, or even somewhat more, is easy. As against this, the proportion of the aged to the rest of the population increases faster in a colony than in the Mother Country. In England the proportion over sixty-five years of age is about 5 per cent. In New Zealand it still is lower than that, but it rose from 0·63 in 1864 to 4·06 in 1901. The strong pioneer settlers who found colonies are almost entirely made up of colonists in their youth, or in the prime of life. Most of the New Zealand settlements, however, have passed out of the pioneer stage and are now between fifty and sixty years old, and grey hairs have become a common sight amongst their colonists. Moreover, the death-rate in the colony—9·6 per 1000—is the lowest in the world, and does not increase. As insurance companies know, the expectation of life there is much higher than in Europe, and the difference is specially marked among the working classes. The average worker in England is as old at sixty as the New Zealand labourer at sixty-five. The effect of even the most modest pension regularly paid in prolonging life is well known.

It does not seem likely that the Pensions scheme will lead to any great reduction of charitable aid expenditure in the colony. The Premier has stated that the number of pensioners hitherto supported by

State charity is not more than about 5 per cent of all the claimants. This estimate, of course, is subject to revision. At present it seems as though any hopes that were formed of very substantial relief to official expenditure on the poor will be disappointed. The parliamentary vote for Charitable Aid will not be much lower than before 1898. I find, nevertheless, that at a meeting of the charity administrators of the city of Dunedin, held on 8th March 1899, it was reported that 27 inmates of the local institution which answers most nearly to the English Workhouse had left it on receiving their Old Age Pensions. This, it was estimated, would take £400 a year off the rates. Moreover, £1000 a year would be saved in outdoor relief from the same cause, as 104 outdoor recipients had had their allowances stopped. The estimate of another body of charity officials was that their expenditure would be lightened by £32 a week. In 1901, 536 pensioners were living in State charitable institutions. Their pensions were paid to the authorities, who handed back to each pensioner on the average a shilling a week as pocket-money.

I may quote the following report of a discussion in one of the smaller charity boards of the colony, because it gives briefly specimens of most of the points which the boards had to consider in the early stages of the working of the Act:—

The monthly meeting of the South Canterbury Hospital and Charitable Aid Board was held on 22nd February. The chairman stated that about twenty of the recipients of outdoor relief had obtained Old Age Pensions, and, taking the average at 15s. a month, this would relieve the board to the extent of about £180 per annum. Seven inmates of the Home had obtained pensions; two of them had in consequence left the Home, and others talked of

going. Representations had been made by some of those who preferred to remain that they should receive a portion of the pension money to spend as they pleased, and the odd 11d. of the 6s. 11d. per week was suggested. He was of opinion that it should be granted, on condition that it was not spent in drink. A request was received from three old age pensioners, who owned a little property, which had been transferred to the board as a condition of their being supplied with charitable aid, that, in consideration of the properties being left in the hands of the board, the aid should be continued. It was decided to refuse the request. The question of handing back the deeds of the properties was held over for the present, partly in view of the uncertainty of the pensions being continued beyond the first year. Some other pensioners also applied to have the aid they had been receiving continued, and this also was declined. Mr. Grandi asked that the pensioners in Timaru who had been in receipt of charitable aid should, on handing their pension-certificates to the Secretary, be allowed to obtain necessaries from the board's store to such amount as they required at wholesale rates, and be handed the balance in cash. Objection was made to this that the board had no longer any duty towards those in receipt of pensions, and that all pensioners might claim the same privilege. Final decision on the point was, however, deferred. In one case, where an aged couple had been in receipt of 30s. per month, and one of them had obtained the pension of 30s. per month, it was decided to reduce the former allowance by half. A reduction of £1 was made in the monthly allowance of £3 : 10s. to another family, one member of which had obtained a pension. It was resolved that all recipients of aid entitled to apply for pensions must do so, under penalty of having their aid stopped.

On the whole, it may be granted that the greater part of any help which the Act may bring to those now bearing the burden of charitable aid will not come to the Department of Charitable Aid or to its vote, but to the friends and relatives, and the charitable private persons upon whom the aged poor have hitherto depended. Already several cases have come before the New Zealand magistrates in which children have sought to obtain reductions of payments hitherto made by them

in support of aged parents who have been granted State pensions. The course taken by the magistrates in these cases has been to allow a partial abatement. For instance, in one case five children, who had been paying 8s. 6d. a week between them to a parent, had the payment reduced to 5s. on the ground that their father would henceforth get 7s. a week from the Government. In other cases the children's contributions were cut down by one-half. There can be little doubt that a large portion of the £200,000 to be found by the New Zealand Treasury under the Pensions Act will go towards lowering the sums found by the children of the poor to the support of their aged relatives. It may be argued that most of these contributions, voluntary or otherwise, came from the pockets of workers not too well able to afford them. To that extent, then, the relief given by the State's help will to many minds not seem unfair. Cases such as that quoted by Mr. Monk in the House of Representatives, and referred to on an earlier page, exist, no doubt, but are, I believe, exceptional.

On the vexed question of the effect of free pensions upon thrift among the poor, it may be pointed out that no contributory scheme has, so far, commended itself to the public in any part of the Empire. The virtues of some ideal contributory scheme are a handy theme to descant upon when opposing the free grant of pensions to the needy. But, admit though we may the absolute sincerity of many of those who prefer the one to the other, we may well remain doubtful whether any universal contributory scheme is likely, in our time at any rate, to be more than a counsel of perfection. Personally, I suspect that little enough would have been heard in New Zealand of contributory schemes had not

a practical proposal of a different nature been proffered to Parliament. Sir Harry Atkinson, who, when Premier of the colony in 1883, brought forward a scheme of National Insurance, met with no encouragement whatever, and hardly anything more was heard of compulsory thrift till Mr. Seddon's Bill appeared. What the influence of the present Act upon national thrift will be only time can show. Yet, unsafe as speculation must be in the Act's initial stage, one or two probabilities may be touched upon. It is true that the Act, unlike a number of English schemes now under discussion, certainly does not offer any direct and specific encouragement to thrift. It may he pointed out, on the other hand, that so meagre an allowance as a shilling a day, deferred until an age which most people do not reach, scarcely offers an inducement likely to interfere with the daily habits and plan of life of any but the very poorest. Outside the ranks of that class, New Zealanders who were thrifty before are not likely to be unthrifty now. Then comes the question whether, amongst the lowest grade of wage-earners, thrift is a virtue or not. It is one thing to teach a workman earning less than thirty shillings a week to spend his pittance wisely, another to induce him to hoard it. There is this, too, that the Act allows its pensioners to earn an income of £34 before any part of their allowance is forfeited. Most of them with any earning power left are likely to employ it to supplement their daily shilling. Nor have I very much fear that the prospect of the said shilling will discourage thrift in middle life even among the very poor. There are two ways of inducing people to be thrifty: you may encourage them with the hope of attaining to comfort, or you may frighten them with the alternative of utter destitution. I attach more

value to the efficacy of hope. The pension is more likely to induce the poorest to lay by a few pounds to supplement the State's allowance by, say, the purchase of a little annuity, than it is to incite them to waste their last shilling because, forsooth, when they come to sixty-five, they are to be recipients of a shilling a day. Seven shillings a week does not mean luxury, even in a country where meat and bread are as cheap and the sunshine gives as much warmth as in New Zealand.

Students may do well, however, to keep a watchful eye on the effect of the provision by which £1 of pension is deducted for every £15 of property which the pension-claimant owns above £50. This, to the writer, seems the part of the scheme least likely to remain unamended. It is true that in the case of old married couples they may own twice £65 between them before the reduction begins to be made. £130 is a good deal for a couple belonging to the poorest class of wage-earners to get together. Still, the limit of property fixed by the Act may possibly have to be raised. That the possession of £65 of property should lose a man £1 a year may be a temptation to poor persons nearing the pension age to transfer property to children, or even waste it. A more innocent way of outflanking this part of the Act would be for intending applicants who may own two or three hundred pounds to purchase a small annuity therewith. As long as an annuity does not amount to £34 it cannot interfere with the State pension. To buy a tiny annuity, then, may henceforth become a favourite method of investing little savings among the prudent poor of the colony; unless indeed the Legislature amends the clauses of the Act fixing the amounts of property which pensioners are permitted to own.

The complaint that a pension of a shilling a day is insufficient to support a deserving person in comfort applies to any free-grant system not financially impossible under present circumstances. No colony—to say nothing of older and poorer countries—would submit to the taxation required to give its aged poor 15s. a week. A shilling a day is much better than nothing. Nor does yet another objection—that the smallness of the pension will tempt old men to stay in the labour market and take low wages—weigh much with me. The number likely to do that—over and above those who do it already—must be few.

Imposture offers an inevitable and disagreeable difficulty. It will doubtless beset the Pensions scheme, just as it besets friendly societies, life insurance companies, and all forms of charity and benevolence, public and private. To cope with it there will be the zeal of Government officials, the wholesome publicity of the trial of claims in open court by hard-headed police magistrates, and the stimulating public opinion of a tax-paying community confronted with a large and steadily-growing sum to be provided yearly for pensions. Every now and then we may hear—as we have already heard—of some case of a fraud upon the Act. When anything of the kind is detected, we may be sure that the most will be made of it. And in so far as the consequence of disclosure stimulates to greater vigilance, the outcry caused thereby will do good. But a few such episodes will not damn a pension system administered with average honesty and capacity; and that a reasonable display of those qualities may be looked for in connection with the experiment will, I think, be the opinion of all who know the civil servants of the colony. Defects the

Act probably has, but they are not of its essence. They are but blots and excrescences which level-headed administration and a little courageous statesmanship may be trusted to get rid of as they become serious.

Pensions Laws of New South Wales and Victoria

In the year 1900 living was cheap in the warm, dry climate of New South Wales, where free trade was on the side of the consumer. Yet in 1900 it was officially computed that the amount expended in the colony on charitable relief of all kinds, including hospital and lunatic asylums, was £580,000. This substantial sum Parliament resolved to supplement with a system of Old Age Pensions.

Unlike New Zealand — where it may be fairly claimed for Mr. Seddon that he acted in advance of any serious public movement for pensions — New South Wales was the scene of a certain amount of discussion and agitation before the Lyne Government brought in the Bill which is one of the subjects of this chapter. There were pioneers of Old Age Pensions in Sydney. The chief of these was Mr. J. C. Neild, a Member of Parliament, whose genuine interest in the question, careful study of it, and personal experience of the actuarial work of life-insurance business, made him a valuable champion. Some years ago Neild, by arrangement with the Reid Ministry, paid a visit to England and the Continent to collect information on his favourite subject, and on his return drew up a report embodying the fruits of his journey. Oddly enough, this useful episode in the history of the pensions movement brought about the downfall of the Reid

Cabinet. A modest sum was put upon the estimates as a contribution to Neild's travelling expenses. The refusal of the Sydney Parliament to vote the money upset Reid's Ministry, with consequences both small and great. Neild had to go without his money, or part thereof, and Barton, and not Reid, became the Commonwealth's first Prime Minister.

For two years New South Wales watched the working of the experiment going on on the eastern side of the Tasman Sea. By that time it was clear that the New Zealand Old Age Pensions Act had come to stay, that the public had taken to it, and that it would work at least respectably well. True, it had cost more than had been calculated; but this did not frighten the Sydney Parliament, which—thanks to the imminence of a heavy federal tariff and the curious financial adjustment involved thereby—seemed in 1900 likely soon to be embarrassed with riches in the shape of a million or so of surplus revenue. The ministry of the day held office in alliance with the Labour members. These were prepared to support Sir William Lyne and his colleagues, See and Wise, but they were determined to have solid social legislation in return. In Old Age Pensions was found something which, while ardently desired by the Labour party, was not objected to by the rest of the community. Accordingly, on 13th September 1900, Sir William Lyne moved and carried in the Legislative Assembly a resolution empowering him to bring in an Old Age Pensions Bill. Two months later this measure had passed through Parliament; it came into operation on the 1st of July 1901. The principle of the law is stated clearly enough in its preamble in these words:—

It is equitable that deserving persons who during the prime of life have helped to bear the public burdens of the colony by the payment of taxes, and by opening up its resources with their labour and skill, should receive from the colony pensions in their old age.

By the frank admisson of its proposer, his Act is based on the New Zealand law, "with certain important modifications." Like Mr. Seddon's statute it grants its small stipend freely, making no demand for contributions; is not universal, but confined to the neediest class; applies to persons of both sexes of the age of sixty-five and upwards; stipulates for good conduct on the pensioners' part; and excludes from its benefits all aliens, and also Chinamen and Asiatics whether aliens or subjects of the King. Of the "important modifications" the most practical, perhaps, is in the amount of the pension. In New South Wales the full pension may be as much as £26 yearly, say ten shillings a week —£6 a year more than the maximum in New Zealand. The restriction of the amount of private income an applicant is allowed to possess, while still remaining qualified to receive the full amount of pension, is proportionately more severe in the older colony. In New South Wales the deduction from the full £26 begins when the private income amounts to £27. Claimants may possess £26 of income without any liability to deduction. But for every £1 that they have over that sum, £1 is struck off their pension, so that any one whose income is £52 a year loses any title to any allowance whatever. In both colonies it would seem that £1 a week is regarded as the highest sum to which the State ought to raise a pensioner's income by supplementing his earnings or receipts; in both aid ceases at that figure. In the larger colony married couples living together suffer a special deduction. Instead of a

possible pension of ten shillings a week each, or £1 between them, they are only entitled to three-fourths of that sum. If they live apart and belong to the most destitute class, they may draw £26 a year each or £52 in all. When living together they are given but £19 : 10s. each, or £39 in all. This penalty on domestic union seems open to obvious objections, savouring as it does of that very poor-law spirit against which Old Age Pensions laws are supposed to be aimed.

Another novelty in Sir William Lyne's Act smacks more of human sympathy. This is a proviso by which the officials administering the law are empowered to consider the cases of such poor from sixty and sixty-five years old as have been disabled from earning a living by sickness or accident. It is conceivably possible that this clause, if found to work well in practice, may be the beginning of a change in the Old Age Pensions movement. Instead of the demands for a universal pensions scheme with which students are familiar, we may hear more of blending provision for poverty in old age with the maintenance of younger but utterly helpless persons. At first sight these latter would assuredly seem better objects for public bounty than the comfortable classes who, under a universal scheme, would draw allowances which they do not require. Colonial pensions laws have at least avoided the amiable inconsistency of adding the rich to the burdens of the State by presenting them with money which they neither need nor ask for.

In New Zealand applicants for pensions have to be examined by police magistrates, and the examination is usually held in open court. The magistrate and an official from the State pensions office may ask them

questions, and the local police are present and may be consulted. The examinations, hitherto, have not been inquisitorial processes. Sir William Lyne, however, objects to any public inquiry at all. Under his Act applicants for pensions-certificates appear before a board of three persons, all officials, who conduct their inquiries in private. A central board is presided over by a registrar of pensions, who, under the colonial treasurer, will be chief administrator of the Act.[1] For convenience fifty-three local boards have also been set up, each likewise of three officials, a deputy-registrar and two colleagues. With the consent of the colonial treasurer, disappointed claimants may appeal from any board's decision. Some district judge will be empowered to hear such appeal, and his decision will be final. As against the New Zealand system the Australian law may be found to have an advantage in assuring a more patient and searching inquiry into applications. In New Zealand police magistrates are hard-worked men, and it has been suggested that some of them grant pensions-certificates in a rather perfunctory fashion. On the other hand, secrecy is always unpopular, and appeals—especially in the case of the poorest suppliants—irritating and costly. Magistrates, too, are free from all suspicion of political influence; officials, however honest and sturdy, are not. We can only judge of the respective systems after seeing them work side by side.

A probable improvement in the Australian as compared with the New Zealand Act is the more liberal limit fixed to the amount of property applicants are allowed to own without disentitling themselves to some allowance. In New Zealand the highest amount of property

[1] The first-appointed members of the central board were the Government statistician, the Inspector-General of Police, and Mr. J. D. Fitzgerald.

permitted is £65, although a New Zealand applicant who has saved nothing may have a private income of anything less than £34 and yet draw a full pension, and anything less than £52 and yet draw a partial pension. In New South Wales the maximum amount of property permitted is £390 *plus* an exemption of £50. Equitable and encouraging to thrift as this is, it of course adds slightly to the scheme's cost.

New South Wales is not an isolated colony but a State of a federation. So a clause of the Bill provides that residence in any other province of the Australian Commonwealth shall to a certain extent count as residence in New South Wales. That is to say, an Australian from a colony with a pensions law of its own, need only have resided ten years in New South Wales before becoming qualified to apply for a pension there. Other British subjects must have resided in the colony for at least twenty-five years continuously. "Continuously" means that their absence during this quarter of a century must not have exceeded two years. The concession to Australian reciprocity above mentioned is, it is explained, to be conditional on an arrangement being made between New South Wales and the neighbour States that they pay part of any pension granted to their ex-citizens, or extend a similar concession to emigrants from New South Wales who have settled in their territory. Under this reciprocity system it is conceivable that interesting discussions on questions of "settlement" may arise, not utterly unlike some of the simpler cases decided under the English poor law. At present Victoria is the only other Australian colony which has done anything in the way of Old Age Pensions.

Naturalised aliens must have been naturalised for

ten years before applying for a pension, and aboriginal natives are classed with Chinese and Asiatics and excluded altogether. In this the black-fellows of the colony—who are supposed to number about 8000—are less lucky than the New Zealand Maori who have the same rights as whites. Maori pensioners are now drawing nearly £20,000 a year.

The stipulations as to the record of fairly good conduct which applicants must show are much the same in both colonies. Under the Lyne law husbands and wives must not have deserted their spouses or families for as long as six months. Claimants must bring evidence to show that their lives for five years before application have been sober and reputable. They must not have committed and been punished for any legal offence of at all a serious kind during the preceding twelve years. Their record must be clear of very heinous crime for twenty-five years. Pensioners who do not behave themselves may have their pensions forfeited, and the Upper House of the Sydney Parliament inserted a singular precaution by way of keeping them out of temptation : no licensed victualler is to supply liquor to an old age pensioner. Strong protests were made against the amendment in the Lower House; it was denounced as a silly insult to the pensioners, and Sir William Lyne promised to endeavour to get it struck out in the next session, if possible before the Act should come into operation. In New Zealand, be it noted, there have been some, but not very many, cases of drunkenness among pensioners. No instalment of a pension is to be paid to any one in gaol, in a lunatic asylum, or who is absent from the colony. If a pensions board thinks it advisable to pay a pensioner's monthly dole to some

responsible person, such as a clergyman or justice of the peace, it may do so in cases where there is reason to fear that the pensioner will squander his money. Or the authorities may board him out and apply the pension to his maintenance.

The Act's ostensible aim is to discriminate between the deserving and the undeserving poor. Rightly, therefore, it insists that when the claims of applicants are before the boards all material allegations necessary to entitle them to a pension must be proved by corroborative evidence. An exception is made of the point of age. In practice, then, an applicant will have to bring trustworthy evidence to support his statements as to good conduct, poverty, and domicile.

In New South Wales pensioners who have been living in charitable institutions are not to be allowed to go on doing so, unless they are physically unfit to shift for themselves. When asked in debate, "Why turn them out?" Sir William Lyne answered, amid applause, that he did not think it right for decent old people to live in these homes, herded with others who were mere social wreckage. In this the New South Wales law differs from that of New Zealand, where the local poor-law boards are expressly forbidden to refuse to admit pensioners. Lyne was sanguine that his law would lead to a great reduction of the £580,000 spent on relief in his colony. In one speech he seemed to suggest that almost one-third of this sum might be saved. In another he was less hopeful, and put the saving down at a quarter. All that can be said, as yet, is that experience in New Zealand on this point is not encouraging. Altogether, on the financial side, the outlook of the Lyne pensions scheme is somewhat hazy. In the debates on the Bill its cost

was vaguely put down at something between £300,000 and half a million. In the budget of 1901 £357,000 was asked for on account of it. The amount actually paid to pensioners during the year ending with June 1902 was £436,202. The cost of administration was £9543, and £6928 was paid as commission to the bank of New South Wales.

The debates in both Houses in Sydney were in marked contrast to the heated battles in New Zealand in 1896, 1897, and 1898. In the Lower House there was no obstruction, no predicting of intolerable public burdens and a demoralised working class, no advocacy of contributory schemes. Rightly or wrongly, national thrift was not a word to conjure with in Sydney. There was some criticism of the machinery of the Bill, and some justifiable complaints of the vagueness of the Government's financial estimate. There were a few personalities and a great many interjections. Of direct opposition there was almost none. There was not even much in the way of attempts to kill the Bill with kindness. Universal pensions found fewer friends in Sydney than in New Zealand. The amendment most often desired seemed to be a reduction of the qualifying age from sixty-five to sixty. The Upper House, if not enthusiastic, was benevolent. Seldom, indeed, has a striking, novel, and expensive social reform been adopted with so little hesitation and amid so harmonious a chorus of blessings and good wishes.

As the applications for pensions-certificates in New South Wales are heard in private, the newspapers were unable to describe them as had been done in New Zealand. When, however, the first day of payment arrived, some quaint scenes were witnessed and sketched at the counters of the banks, as the following extracts,

from an account given by the Sydney *Daily Telegraph*, indicate :—

"God bless you, sir; may you be happy in life," said two old ladies, looking up into the face of the accountant at the Victoria Markets branch of the bank of New South Wales. Their faces beamed with gladness, and their hearts overflowed with gratitude. They had been to the "teller," and received each of them the amount of the State's beneficence. It seemed too good to be true; but happy in its possession, they wanted to thank somebody.

The day brought many such incidents,—pathetic by their very genuineness,—and with them a fuller meaning of the blessing which is promised to those who "consider the poor."

"I have paid thousands into this bank in my time," observed one old lady, in tones of sad reflection. Asked by the teller what she meant, she explained that she had been well off in the years gone by, but her six sons had lost it all for her—"horse-racing."

At ten o'clock in the morning, when the bank doors were opened, there was a bit of a rush, and a group of aged male pensioners actually started "bullocking." "Now then," jocularly interposed the bank official, "can't you fancy yourselves young men again, and be gallant?" They laughed heartily at the gibe, and immediately made way.

A little later an elderly dame was to be seen leading a blind man up to the counter to receive his pension. She was a neighbour of the old man's, she volunteered, and couldn't let him come by himself.

"You cannot sign your name, can you?" asked the bank teller.

"Oh yes, I can, if you'll put the pen on the line for me."

. . . . .

Some of the signatures attached to receipts during the day were very bad. "It is impossible to read them," vouched one of the bank officials.

A large proportion of the people receiving pensions were "marksmen," that is, they could not sign their own names, and had to put a mark. In such cases it was necessary for the pensioners to bring a witness who could testify to his *bona fides*. Some came without the witnesses, and when told what was required of them by the Act protested that they couldn't get a witness. When, however, the alternative was pointed out to them, and they

were informed that unless they produced a witness within twenty-two days they would lose the month's pension, they quickly retired, and readied up the necessary testimony. Pensions are payable for the first twenty-two days in each month, but not after that time. Other applicants, when told that they must sign the receipt themselves in the presence of the bank official, protested that they could not write. When put to the test, however, they managed the task with a little coaxing.

Many of the applicants were very feeble, and it was evident that they had not left their homes and reached the bank without considerable effort. Some were deaf, and could only be made to hear with difficulty. A number, particularly amongst the old women, could not read, and it was not to be wondered at, therefore, that they should make many mistakes. Kindly aid from the bank officials, however, helped them over many a difficulty, but a deal of inconvenience was caused.

The majority of the applicants at the city branches were women, many of them extremely nervous. Possibly the staff of policemen at the doors served to alarm them. It was altogether a new experience. Most of them were greatly elated at the wonderful evidence of the Government's beneficence, and had to be treated very gently. Hardly any of the applicants came with their receipt forms filled up, as they had been advised to do, leaving just the signature line blank. The Act requires that to be filled up in the presence of the branch teller. One old lady seemed to have all her wits about her in filling up the paper, but having signed her name she went off without her money.

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Some pensioners sent proxies. These, of course, could not be accepted unless they were accompanied by a warrant from the department. Numbers left their certificates on the bank counters. They will be at considerable trouble to replace them, unless they can prove their identity and recover those left behind. On the other hand, some were so careful of the certificates that it took time to undo the relays of paper in which they had been wrapped up, and the owners showed great reluctance in letting the precious documents go out of their hands.

It was curious that none of the applicants asked for the money to be given in any particular form, as is customary at banks. It was taken as it was offered—without question. The only anxiety

was to get it. Many retired, grasping the coin as with a vice, murmuring blessings on all and sundry. In many instances the recipients expressed themselves as being profoundly grateful to the bank clerks, as though they thought the money had come from their pockets.

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Chatting at the close of the day with Mr. Dennis Miller, of the Bank of New South Wales, that gentleman explained that at the city and suburban branches of his bank the sum of £2022 had been paid to 938 pensioners. "We expect to-morrow to have more, because many thought to-day was a bank holiday. In the country towns where the bank is not represented money orders are purchased and sent forward to the local postmasters, who will hand them to the pensioners in person. In this way every pensioner of the State is practically provided for, either at the bank or the post-office."

A good crowd of pensioners lined up promptly at each place at 10 a.m., and the payments were made steadily throughout the day. Everything went off smoothly. As the pensioners were paid they were advised how to proceed on future occasions, so as to save delay and to prevent all coming on the one day. Each was given a card indicating on what day in each month to call.

Early in 1899, Sir George Turner, then Prime Minister of Victoria, hit upon a plan which may be recommended to other Ministers—if there be any such—in search of a progressive policy. He sent out two trusted emissaries to New Zealand to take note of the working of the newly-passed experimental laws there. These two gentlemen, Mr. Best, Minister of Lands, and Mr. Trenwith, the most shrewd and practical trade unionist leader who has up to the present made any mark in Australian politics, brought back a very favourable report both of the novel laws and the condition of the colony which is their theatre. They praised the Land System and the Compulsory Arbitration law. In particular they blessed the Old Age Pensions Act. Sir George Turner then introduced a

Bill into the Parliament at Melbourne, which may be described as a copy of the New Zealand pensions law, with certain provisos intended to make for economy. In November 1899, however, the Turner Ministry fell, and though Mr. Alan M'Lean, the succeeding Premier, pledged himself to pass a pensions law, his days of office were too few and troubled to enable him to redeem his promise. He failed to win the general elections in 1900. In less than a year, therefore, Sir George Turner came back again, and with him Mr. Best and Mr. Trenwith took office. Almost the first thing he did was to commit the colony definitely to the principle of Old Age Pensions. Public opinion had been very clearly expressed on the question at the elections, and Sir George hastened to carry out his mandate.

The method he adopted was a device at once for smoothing the way for a permanent pension system, for providing forthwith for the expectant and impatient old people in the colony, and for enabling Victoria to begin paying Old Age Pensions before her rival New South Wales. Sir George, in short, determined to begin giving pensions on the first day of the new century—the day of the proclamation of the Australian Commonwealth. He had but three weeks in which to obtain the needful power from Parliament, yet he obtained it, though with consequences both laughable and costly.

As already mentioned, Sir William Lyne had put off the operation of his Act until the 1st of July 1901; from that day it was to have permanent force. Sir George Turner's, on the contrary, though passed some weeks later, was to come into force on New Year's Day, 1901, and to expire on the day on which the New

South Wales law began to work. That is to say, the Victorian Act was a temporary measure to have force for six months only, and intended to serve as a stop-gap while Parliament and the Ministry devised a law to last. Makeshift as it was, the Turner Act affirmed the principle of Old Age Pensions. There its merits began and ended. Anything simpler it would be hard to imagine. On and after New Year's Day, 1901, every Victorian who had lived twenty years in the colony, and was at least sixty-five years of age and poor, might apply to a police magistrate or justice of the peace for a pension, by making a statutory declaration of the facts aforesaid. A pension of a shilling a day was thereupon to be paid to him for four weeks. During that time inquiry was to be made by a police magistrate into his good faith and actual condition. Habitual drunkards and convicted criminals were to be rejected in Victoria as in the other pension-paying colonies. If satisfied of his poverty and decent behaviour in the past, the magistrate might grant him such allowance, not exceeding a shilling a day, as might seem needful to supplement any sum the applicant owned or earned. Persons of less than sixty-five years might also claim pensions on the ground that they have had their health ruined by working in mines or at some unhealthy trade. Sir George Turner's estimate of cost for the half year was so over-sanguine that he only took authority to spend £75,000. This, of course, was based on the assumption that the class entitled would apply gradually. As it turned out, applications streamed in from the first week, and the sum actually spent in six months was £131,000. Sir Frederick Sargood, in an able criticism of Sir George Turner's temporary pensions scheme, gave reasons for estimating that a permanent scheme on

such a basis would cost the colony between £600,000 and £700,000 a year. He was nearer the truth than Sir George. The only excuse for the Turner scheme is that it was, confessedly, not permanent, but a temporary experiment, and a useful if rather costly means of arriving at a true basis. Its costliness was not its only defect. Like all hasty liberality, it fostered imposture. It did not matter so much that here or there money was thrown away on drunkards and loafers. It was more serious that men deliberately divested themselves of property in order to make claims, and that persons with relatives well able to support them drew pensions.

Public opinion rightly condemned the raw blunders of the makeshift Act. On the Victorian Government, face to face with the necessity of drawing up a permanent scheme, the possibility of an addition of £400,000 to £500,000 a year to their expenditure came as a sobering shock. Apart from the new pensions they estimated that for the year 1901-02 they would require £134,000 for lunatic asylums, £69,000 for children's reformatories, £110,000 for grants to charitable aid boards, and £3000 for the State Labour Farm. This was over and above the sum provided for poor-relief by local rates. Mr. Peacock, Sir George Turner's successor, decided to forego any attempt to rival the scale of the New South Wales pensions, and by cutting down the Victorian scale to reduce the cost of the Pensions scheme below £250,000 a year. In his budget speech of 27th August 1901, Mr. Peacock reviewed the experience of six months. He thought the amount of drunkenness amongst pensioners was very small, and paid tribute to the general honesty of applicants and their relatives. But, admitting that in

passing the stop-gap law so hurriedly Ministers had not shown a full sense of responsibility, he warned the friends of Old Age Pensions that there was danger of the scheme breaking down. A "tremendous amount of good" had been done by it, but many people had palmed off relatives on the State. It would be a bad day for Victoria to encourage such persons to shirk their proper burdens, as even leading colonists and public servants were doing. He meant to have all these cases re-heard, in open court, and was confident that if this were done numbers of those now drawing pensions would not have their pensions continued. Even with the poor machinery at his disposal, he had cancelled many certificates already. "We do not want," said he, "to inculcate the idea that the father and mother have not some claim upon those whom they have brought into existence. . . . I have been shocked beyond measure to find numbers of cases where some of these persons, who have had money of their own and relatives to whom they could look for support, have dispensed with their means by improper methods in order to make claims." To carry his more modest scheme Mr. Peacock had to fight hard in his Lower with the Labour members and others who were disappointed with what they regarded as his stinginess. But though forced to yield on one or two points, he had his way on the whole. The Victorian Pensions Act, which he passed in December 1901, and which cost £283,000 in pensions in the year ending with June 1902, differs not a little from those of New Zealand and New South Wales, and is notable for the number of its precautions and reservations, and for the care with which it tries to confine its pensions to the enfeebled and utterly necessitous.

It does, however, retain the interesting clause by which a pension may be paid to a person under sixty-five, but whose health has been permanently shattered in working at mining or any dangerous or unhealthy occupation. Such occupations, however, must be "prescribed," and no pension may be paid under this section (6) until the Colonial Treasurer has in writing approved of it.

All claims for pensions have to be heard and investigated in open court; but while in this the Victorian follows the New Zealand and not the New South Wales system, it does not trust examination to police magistrates. It takes place before commissioners. Notice of the hearing is sent to the police and to all charitable institutions in the neighbourhood, and the fullest evidence may be taken—whether strictly legal or not—as to the claim and the claimant.

The Victorian Old Age Pension is a sum sufficient to bring a pensioner's income from all sources up to eight shillings a week. In computing a pensioner's private income, however, an exemption of two shillings a week is allowed on earnings by personal exertion. On the other hand, if any claimant appears physically capable of earning or partly earning his living, the Pensions Commissioner before whom his claim is heard may either refuse to grant the claim, or may grant any lesser sum than eight shillings a week that he may think proper. Moreover, to be entitled to the two shillings exemption the petitioner must have no more than £25 in goods of any kind.

Every claimant for a pension, on handing in his written claim, must support it with a statutory declaration affirming that it is true in every particular. "The pension claim," says Clause 14 of the Act, "shall

expressly affirm all the qualifications and requirements, and negative all the disqualifications under this Act." Wilful false statement in the statutory declaration is punishable as perjury. To succeed in his claim the claimant must prove age, continuous residence in the State, and good character. The requirements under these heads are much the same terms as in New Zealand and New South Wales, except that claimants are specifically required to prove that they have made reasonable efforts to maintain themselves, or have reared a family in decency and comfort. Australians who have in earlier life lived in any Australian State where Old Age Pensions are paid need only have resided in Victoria for ten years to be qualified for pensions there. Such Australian State, however, must make a like concession. In other words, Victoria is prepared to make reciprocal arrangements with New South Wales. In addition, claimants' average weekly income during the six months before they apply must not amount to eight shillings, and they must not directly or indirectly deprive themselves of property or income in order to qualify for a pension. The legal limit — £160 of accumulated property — disqualifies its possessor, and, though an exemption of £50 is allowed, a husband and wife, if living together, may only claim one such exemption. An applicant must satisfy the commissioner that he is unable to maintain himself, and "that the husband, wife, father, mother, or children of the claimant, or any or all of them, are unable to provide for or maintain the claimant."

In order to ascertain whether or not these relatives are able to contribute to the support of a claimant or pensioner, the head of the Pensions Office may call upon each of them to declare in writing their means

and ability. If they hesitate to do this, or if the Pensions officials believe them able to contribute, they may be summoned before a commissioner and ordered to pay a contribution. In hearing such cases the commissioner is to have the powers of a Court of Petty Sessions, but may, if he thinks fit, hear them in private. Finally, no one shall receive a pension-certificate unless he has executed a deed poll undertaking—on demand—to transfer to the Government all his real property. The deed authorises the treasurer to sell the property, and deduct from the proceeds all sums paid to the owner by way of pension. Any balance remaining is handed back to the pensioner or his representatives. This odd clause (21) takes no account of personal property. It will be interesting to watch its results.

No pension is to be paid while a pensioner is in an hospital or lunatic asylum, or is an inmate of a benevolent asylum; and a pension may be forfeited by misconduct of various kinds. Two convictions for drunkenness, for instance, if recorded within twelve months, will cause forfeiture.

Such are the chief provisos and precautions with which Old Age Pensions are now hedged about in Victoria. They are not altogether pleasant reading for those who dream of Old Age Pensions as State aid ungrudgingly granted in a genial spirit and a free-handed fashion.[1] Some of them are, perhaps, the

[1] Even the New South Wales Act is not liberal enough to please every one. This is how the *Bulletin* puts the case against precautions and limitations:—

New South Wales Old Age Pension application forms are now being distributed, and are obtainable at any court-house, police-station, or post-office throughout the State. After being filled up they can be lodged with any clerk of Petty Sessions. As in Victoria, the granting of a pension is hedged around with many qualifications and reservations. The technicalities involved are quite drastic enough to prevent many deserving old people receiving a little necessary assistance in their declining years, and more than sufficient to unduly swell the cost of administering the law.

fruits of a natural reaction following upon the *fiasco* of the makeshift Act of 1900. Others, however, are necessary enough, and most of these are likely to be adopted in New Zealand and New South Wales. New Zealand, indeed, taught by three years' experience, is already arming her Pensions officials with greater and needful powers.

No one can obtain a pension if he or she has been absent from the State more than two years in the last twenty-five ; has deserted his or her lawful mate for six months or upwards ; has been gaoled for five years during the twenty-five years' residence in the State ; has been imprisoned for four months, or four times, during the twelve years immediately preceding the application ; is not of good moral character—whatever that may mean ; has not led a sober or reputable life for the last five years—whatever the legal definition of sobriety may be ; has a yearly income over £52 per annum, or property worth £390 net ; has transferred property or income to a relative in order to qualify for a pension ; or is a naturalised subject of less than ten years' standing before applying for a pension. In addition to all these reservations there is a whole list of deductions to be made should applicant have anything at all saved, or have arranged for board or lodging by living with a son or daughter, or any other relative. Most of the deductions are direct penalties for thrift, and one wonders where Fat man (who is always talking about encouragement for ther-rift) was when those regulations went through. In a hundred years' time people will probably lay down their history books to marvel that men were ever so barbaric as to put such restrictions on the means of life and comfort in old age. Just now the Old Age Pension idea is new. In a little while the view will broaden, and people will realise that it is a useless sort of foolishness to waste money employing an army of spies and officials to prevent some unfortunate wretch who has saved a few pounds getting an extra shilling per week. . . . The whole tenor of the proceedings in both Victoria and New South Wales shows that those who are administering the Act regard it as another form of charitable relief, and granted as a benevolent favour by the taxpayer. Which is utterly wrong. There's no charity in it. It's a provision made by the whole community for the whole community's old age. It is old age endowment without a costly system of bookkeeping to ensure that each member of the community shall pay his full contribution and no more or no less. If the pensions are paid out of the revenue and spent in the country, the necessary taxation to raise the means to pay them will lose half its sting. Every man, pauper or millionaire, is entitled to an Old Age Pension from the State if the whole community is taxed to raise the money. Therefore, let him have it, and let the scheme be what it was intended to be—a system of National Old Age Assurance. If a man pays into an ordinary assurance society no one dreams of deducting a pound from his endowment for every pound he may have saved up : why should it be done because the State collects from each a premium according to his means, on the understanding that he shall be insured against want and privation in his last stage ?

CHAPTER III

LIQUOR LAWS[1]

THAT Australia and Tasmania are not the most drunken countries on earth is not the fault of those who governed them in their early years. The story of liquor-selling in those days is one of the blackest blots on colonial history. The little communities were tempted, almost forced, to take the road to Avernus, and for a while went down it headlong, hurried onward by a traffic conducted without shame by men who should have been the last

[1] AUTHORITIES. — *Temperance in Australia*, Melbourne, 1889 (Memorial volume of the Temperance Convention at Melbourne, 1888); "Papers regarding the Working of Liquor Laws in Canada, the Australian Colonies, and New Zealand," English P.P., February 1891, May 1892, June 1894, and February 1896; "A Round-the-World Glance at Temperance Legislation in 1899-1900," by Joseph Malins (pamphlet), London; "Local Veto in New Zealand," letters in *Westminster Gazette*, December 1897 and May 1898, by F. Dolman, L. M. Isitt, and J. T. M. Hornsby; "Local Option in Victoria," interview with Rev. W. H. Fitchett in London *Daily News*, May 1899, with reply of Secretary of Victorian Alliance, dated 27th June 1899; Annual Reports of the Executive of the New Zealand Alliance (note the eighth especially), Wellington, N.Z.; "Memorandum by Stipendiary Magistrate on Prohibition in the Clutha Licensing District, New Zealand," P.P. 1897; the report on the same subject by the Prohibition party is contained in the N.Z. *Prohibitionist;* see also letter of Edward Walker in *Otago Daily Times*, July 1902; Articles on "The Drink Question in New Zealand," in *Review of Reviews* (Aust.), May 1902, by F. Isitt and E. d'Esterre; "Local Option in New Zealand," letter by Edward Walker in *Alliance News* (Eng.), December 1898. The best summary of Australian Liquor Laws is found in the chapter on the subject in the seventh edition of Rowntree and Sherwell. Note also *Problems of Greater Britain*, vol. ii. 441-452. For statistics see Coghlan, Fenton, and N.Z. *Official Year-Book;* also annual reports on police forces in the colonies. The debates on the Liquor Question in the N.Z. *Hansard* of 1893 and 1895 are interesting especially those of the former year.

to touch it. And this went on in penal settlements supposed to be reformatories. If, a hundred years ago, a man had searched the globe for the spots where sobriety was needed at any cost, he might have found such places in Sydney and Hobart. Yet malign stupidity allowed these prisons to reek of rum. They might want for clothes, tools, vegetables, books, coin, medicines; but they seem never to have lacked for rum. Incredible as it now seems, rum-selling was a peculiar privilege of the officers of the British regiment which garrisoned New South Wales; hence their nickname, the rum regiment. Rum became the currency of the country; cattle, corn, and stores were bartered for it. In Tasmania, bottles of rum with the commissariat stamp on them would be taken in pledge for debts at the rate of a bottle for £1; "truly a liquid security" comments one chronicler. The profits were enormous; rum bought for 7s. 6d. a gallon could be retailed for twenty times its cost. Some time after the suppression of the rum regiment, Governor Macquarie gave a special right of spirit-dealing to three Sydney merchants. These contractors bought sixteen thousand gallons yearly from the Government at ten shillings a gallon, and sold at a rate nearly five times greater. Out of their profits they had to build a hospital, and by this admirable arrangement provided at once both building and patients. For fifty years after Governor Phillip's departure let hell break loose in Botany Bay, rum was the prime curse of the land. The wretched convicts would barter their rations for it, in spite of a proclamation decreeing a hundred lashes for the offence. If it be true that Governor Macquarie bought a house for two hundred gallons of rum, we need not wonder that the currency was in common use. The police of Hobart were paid their wages in rum; the

chief constable of Sydney owned a grog shop opposite the gates of the gaol. A batch of convict farmers, when provided with sheep by Governor Hunter, at once swapped their live stock for drink. According to Bonwick and other searchers of old records, wives were sold for it. Twenty ewes and a gallon of rum are quoted as the price paid for one woman ; six bushels of wheat and a fat pig were enough for another. But many of the female convicts whom men married in those days would have been dear at any price. In 1804 good-natured Governor King built a brewery and tried, though with small success, to persuade the settlers to grow barley and drink beer instead of rum. They seem to have preferred to drink both ; for, though by the year 1826 thirteen breweries in Sydney turned out eight thousand hogsheads a year, distilling had been begun in 1822. So, if the colonists had their choice of a milder beverage than the imported rum, they also had a worse liquor. The locally distilled stuff, a vile spirit, was carried far and wide over the South Seas to poison the whalers of the Antarctic and the Maori of New Zealand.

The small beginnings of temperance societies may be traced as early as 1832. Somewhat later, Governor Gipps had the courage to place himself at the head of one, and was roundly abused for that as for many other honest acts. Victoria escaped the worst that befell New South Wales, yet Batman and Fawkner, the pioneers of Melbourne, both sold grog and made money thereby. As late as in the forties it needed some courage to profess teetotalism in Australia, so perhaps it is not surprising that the first professing total abstainer in Melbourne, one Watson, was a Waterloo veteran. He helped to found the Melbourne Total Abstinence Society in 1842. At its first annual meeting a Mrs. Dalgarno, wife of a

ship's captain, delivered what was, possibly, the first platform-speech made by a woman in Australia. The Adelaide settlers, as might have been expected, founded a temperance society in their colony's very early days. In Queensland the pioneer teetotaller bore the apt name of Patient Smith. Indeed, the advocates of temperance, to say nothing of total abstinence, had a hard battle to fight in the young colonies. Long after the other stains left by the convict system had been wiped away, the drinking dens of eastern Australia remained. The frightful loneliness of pastoral life led naturally to a craving for excitment when, after months of hard work and rough living, shepherds and stockmen found themselves at last in town with money in their pockets. Drink was the quickest agent of excitement; the chief if not the only attractions of city or township were the bars; and most country labourers, as well as many farmers, spent their wages or profits in wild orgies. Mad as were the bursts of the regular station-hands, their outbreaks were eclipsed by the drinking-bouts of the gangs of shearers, who, as the squatting system developed after 1840, and large runs grew common, became such a well-known industrial feature. For forty years it was the rule rather than the exception for these men to "knock down their cheques," sometimes in a town, sometimes at a wayside public-house in the bush. The stupid debaucheries of Flemish boors, or of Hogarth's soldiers and sailors, were not worse than the annual "sprees" of these poor fellows. This barbarous custom, which kept half the country workmen penniless, dates from the days when the average shearer or farm-hand was probably a wanderer with a past,—at the best a runaway sailor or an adventurer who had been unlucky on the goldfields. The yearly drinking-bout died very

hard—is not quite dead yet; but much less has been seen of it since 1880. In 1851 a second deluge overflowed south-eastern Australia. For the next ten years the gold-diggers taught Sydney and Melbourne anything they yet had to learn in the way of wild folly. Millions were drunk away, and the habits of every class in the colonies were more or less affected for the time. Through it all, however, education was at work, and the total abstainers, in their way, were at work also. It is recorded of Richard Heales, afterwards the Prime Minister of Victoria, that in the worst days he never missed the weekly meeting of the Melbourne Total Abstinence Society, though occasionally he seems to have been the only member present. In after days a teetotal speaker said of him in words which had the eloquence of truth—

> Speakers might be absent—audience there might be none; but at least the doors should be opened, the hall lit, and the pledge-book in its place. The strong, quiet, earnest man, with talents which enabled him to fill with credit the foremost position in our infant State, sat there keeping his lonely vigil in the shabby, dimly-lighted hall, lest haply from the revelling crowd that surged up and down the adjoining thoroughfare some wanderer should break away to seek the safe and quiet paths of temperance.

Up to 1876 it may be said that temperance work was almost solely educative. The total abstainers were organising, growing in numbers, and dotting the colonies with their oddly-named societies. They had hardly begun to influence the law-makers. Except that in the Port Phillip district, before its separation from New South Wales, high license fees were charged for a while, and that when the fees were lowered from £100 to £25 the result was bad, there is nothing to note in the liquor laws.

In 1876, in South Australia, we meet the first Local Option Act. Known there for many years as Nock's Act, it gave ratepayers power to veto the grant of new licenses. Existing licenses continued to be renewed as a matter of course. The power to forbid new licenses was in 1881 given to ratepayers in New Zealand, where, on the motion of Sir William Fox, the administration of the licensing law was transferred from nominated to elective committees chosen by the ratepayers. The committees might refuse renewals of licenses on the ground that they were not required ; but during the next twelve years they only closed between thirty and forty houses for this reason. The ratepayers were conservative constituencies in which the influence of the liquor trade was strong. Local option, with the right to veto new licenses, next became law in New South Wales. There the veto might be placed on removals as well. To defeat any proposal, however, temperance voters had to outnumber their opponents by one-twentieth of all the votes recorded. Moreover, the larger hotels (houses with not less than twenty-six rooms) were exempted from the poll. The best feature of the licensing laws of the eighties in New South Wales was the enforcement of a provision requiring proper accommodation for lodgers. Thanks to this, a number of the smaller and more useless grog-shops were shut up.

In Victoria an odd sort of local option, much hedged in, and burdened, moreover, with compensation, was permitted after 1885. Electors (not ratepayers merely) in licensing districts were given the right both to vote against new licenses and to reduce the number of those existing. They could determine that these should be cut down to the proportion of one to five hundred

residents in districts with more than one thousand inhabitants. In smaller places the proportion might not be made less than one house to two hundred and fifty. Extra license fees and a special tax on liquor were to provide a compensation fund for the deprived licensees. To set the law in motion in any licensing district there must be a petition of not less than one-fifth of the parliamentary electors there. In 1893 the Chief Commissioner of Police for Victoria reported that in three districts where there had been a reduction of houses there had been no corresponding reduction of drunkenness.

Queensland had for eight years the most advanced option law in Australia. There, by an Act of 1885 (amended next year), one-sixth or more of the ratepayers in any municipal area or local division could petition for a poll, to be taken on three issues. These were—(1) No License; (2) Reduction to the extent of not more than two-thirds of the licenses; (3) Refusal of new licenses. A two-thirds majority was required to carry No License. The second and third issues were decided by simple majorities. No compensation was given.

In 1890, then, there were five local option laws, four of which contained one or more noteworthy features. In New Zealand and New South Wales a poll was held every three years as a matter of course, whereas in Queensland and Victoria action could only be taken on petition. In Victoria the Parliamentary franchise was employed—a much wider basis than the ratepayers'. In New Zealand licensing committees were elected by the ratepayers. Only in Queensland could prohibition be decided upon by direct vote. In New Zealand, however, the elected committees could close houses which, in their opinion, were not wanted, and could do so without

paying compensation. The main use of these laws was to prevent the grant of new licenses. In Victoria, in 1899, it appeared that only 173 public-houses had been closed in thirteen years at a cost of £140,000. The process was found as tedious as costly; and in 1898 a board of inquiry into habitual drunkenness recommended that the number of hotels and wine-shops should be further reduced. In Queensland, too, few old licenses were taken away, though three houses were shut up at Ipswich in 1889.

In all the colonies but one Sunday trading was forbidden. In South Australia, under Nock's Act, it was confined to the two hours from 1 p.m. to 3 p.m., and might be prohibited altogether by vote of the ratepayers. In Victoria, New South Wales, and New Zealand, children under sixteen were not to be supplied with liquor for their own consumption. In South Australia the age was fifteen, but in Queensland, eighteen. In Queensland, moreover, children under fourteen were not to be given liquor for any purpose.

In several of the colonies there was, in the eighties, a marked decrease of drunkenness. In Western Australia the charges, which were 1653 in the year 1884, fell to 848 in 1892. In the former year the proportion to population was forty-eight to every thousand, a shocking figure, due mainly to the convict element, then still considerable in the west. In Tasmania convictions for drunkenness were reduced from 1781 in 1883, to 815 in 1892; and in South Australia, between the same years, from 4362 to 2399. On the other hand, the Inspector-General of Police in New South Wales reported in 1893 that statistics and general information obtained from year to year were not encouraging to those who hoped for any marked increase of sobriety in

that colony. Evasions of the law, too many licensed houses, and public apathy were evils admitted to exist.

Nothing very striking, then, had been done by the law-makers before 1891. Nor can it be said that the experiments of the last twelve years in the way of liquor reform have at all rivalled in daring other colonial novelties. An interesting local option law has been passed in New Zealand, the fruits of which for the most part still remain to be gathered. We see a decreasing consumption of alcohol in several colonies, reaching its limit in 1895 ; and we see, after that year, a slow but distinct increase.

In the decade the beginning of which was marked by the labour crisis of 1890, South Australia was the first to move in licensing reform. There a law of 1891 abolished Sunday trading altogether, and extended the issues submitted at the local option polls to reduction of existing houses, as well as the vetoing of new licenses. The vote, which was still confined to ratepayers, might be taken on petition made by one-tenth of their number. For fifteen years, however, compensation was to be paid to the owners of houses closed. The amount was to be fixed by arbitration. There has therefore been little or no reduction, and the temperance people are waiting for 1907. South Australia, it should be noted, is now a wine-growing province in a large way.

Two years later New Zealand took up the running, and, after its fashion, went some distance ahead of its neighbours. A strong body of total abstainers, first roused by the fiery zeal of Sir William Fox, had been gathering there. Until nigh his eightieth year, the white-bearded patriarch lent the weight of his public standing, high character, and unsleeping energy to the cause. The New Zealand Alliance, of which he was one

of the founders, supplied a rallying point for enthusiasm; its spokesmen and lecturers travelled from town to town, and from end to end of the colony; and the branches of the Women's Christian Temperance Union furnished new and powerful agencies. From 1891 onward the agitation took a front place in public affairs. By that time the continuous campaign against the liquor traffic had developed some very capable organisers, such as the Rev. Leonard Isitt, a propagandist of incessant activity, and a platform speaker of more than common force. In the hold which Ballance and his lieutenants, and their policy, gained on the colony between 1890 and 1893 the teetotallers saw their opportunity. They decided to exploit the new force, and turn it into an instrument of their own. In particular, they took up one item of the Progressives' programme, and gave all their energies to drive it through. This was Women's Franchise. From Fox onward their leaders had instilled into them the belief that women in politics would be a great moral influence, and—in their eyes the same thing—an overwhelming reinforcement for the ranks of total abstinence. The sudden death of Ballance in 1893 brought matters to a head. The Seddon Ministry was staggering under a load of projected reforms which, in any other country in the world, would have seemed enough for twenty sessions. To this local option was now added; indeed, the land or labour measures that Parliament had been elected to carry had to make way for it. While they were brushed aside the "Alcoholic Liquors Control Act" was drafted and passed in red-hot haste in 1893. Faulty in some respects, as was inevitable in a statute so hurriedly put together, it yet contained an ample measure of local option. Careful revision in 1895 made the law what it now is.

The distinctive feature of local option in New Zealand is the triennial licensing poll, held on the polling day of the general elections, for Parliaments are triennial in the colony. The licensing franchise is simply the parliamentary franchise; virtually every man and woman not a nomad may register with very little trouble and vote with less. There are sixty-two licensing districts, and these are coterminous with the parliamentary electorates. At first the teetotallers objected to these districts as too large, but they quickly found reason to change their minds. The local option poll was fixed on general election day in order to ensure a full vote. This was one of the changes made in 1895. By the Act of 1893 no option poll was to be valid unless half the enrolled electors recorded their votes. This proviso was repealed because in 1894 the liquor party spoiled several polls by inducing their friends to stay at home. The fifty per cent vote is now only required in districts where there is no parliamentary contest. The expectation that by taking the option poll on general election day a full vote would be ensured was amply fulfilled. The figures of three licensing polls held since 1893 show an instructive contrast between the two systems.

The voting for Parliament and on the licensing issues is done at the same time, and in the same booth. The voter on entering has two ballot-papers handed to him or her. The two ballot-boxes are painted different shades to prevent confusion; but even if a paper is put into the wrong box, it is the returning-officer's duty to correct the mistake at the counting.

Three local issues are submitted to the electors of each district—(1) Continuance of all licenses; (2) Reduction; (3) Refusal of all licenses. Every one may vote for two of the three issues. This means, in prac-

tice, that any one on the temperance side may vote for Refusal, and, as an alternative, for Reduction. A simple majority of those voting may carry either Continuance or Reduction. To carry No License it must be supported by three-fifths of those who go to the poll. No compensation is paid in any case, and it will be noted that the question of increase is no longer submitted. Virtually it has been impossible to obtain new licenses since 1893. The Government has not even used the power reserved to it to license new clubs. Nor have there been any new "bottle licenses," for the Act of 1895 made it illegal to grant any.

If Reduction is carried, the licensing committee (which is elected on a separate day) must close ten per cent of the houses, and may close twenty-five per cent. It must select first those whose landlords have had one or more offences endorsed on their licenses; next, the smaller and less commodious houses. If No License is carried, all the liquor licenses in the district are cancelled on next licensing day—that is, about eight months after the poll. So much notice of their fate the publicans and wine and spirit merchants have. Wholesale licenses must be refused as well as retail; the sale of liquor within the district is stopped. Private persons may buy it outside the district, and import it for their own use, or to give away. There is, therefore, no such thing as total prohibition in New Zealand, and the custom of speaking of the refusal of licenses as prohibition is sometimes misleading. In addition to the powers given to the people at the option poll, a licensing committee may forfeit any license if the holder is convicted of a serious offence, or if his house is a drunken or disorderly place. But committees cannot now, as they could from 1882 to 1893, close houses merely because they are not required,

or because a neighbourhood dislikes them. That power has been transferred from them to the electors. So, provided no charge is proved against him, a license-holder has, in effect, a tenure of three years.

Since 1881 it has been legal to cite a notorious drunkard before the nearest bench of magistrates and have him declared a prohibited person. No licensed victualler may then serve him with drink. A pathetic case is on record of an unfortunate dipsomaniac who himself applied to be placed on the list of the prohibited.[1] No liquor may be sold to Maori women, and the sale of it is forbidden in the Maori district known as the King Country. Though there is sly-grog selling there, the police are active in prosecuting offenders, and it is not now true to say that drink is forced upon the Maori race generally, or that the decline or arrest of their numbers is due to alcoholic poisoning. The chief scourge of the Maori is not drink.

Since 1893 there have been three local option polls. The first was held under the law requiring a fifty per cent vote. The second and third have been taken on general election day. The contrast of the results is significant:—

Year.	Votes for Continuance.	For Reduction.	For Refusal.
1894 . .	42,429	16,096	48,993
1896 . .	139,580	94,555	98,312
1899 . .	142,443	107,751	118,575

[1] Prohibition orders against drunkards may be obtained in several other colonies. Opinions differ much as to their usefulness. Under the Lunacy Act of New Zealand, 1882, the Supreme Court may issue an order directing an habitual drunkard to be detained in some suitable place for curative treatment. The order may be made on the application of the drunkard or his family. This power is occasionally exercised.

In 1894 no one could vote for two issues, but if the prohibitionists failed to secure their three-fifths majority their votes were willy-nilly counted for reduction. A striking feature in all the polls has been the small number of votes given for reduction only. The moderate reformers, properly so-called, are in danger of being squeezed out in the conflict between the Trade and total abstinence. Nearly all the votes for Reduction in 1896 and 1899 were of persons who also voted for No License. At the third of the three polls Reduction beat Continuance in seven districts. Yet no houses were closed thereby, for all voters in the No-License division who do not also vote for Reduction are held to have voted against it, and their votes are counted with those for Continuance in defeating it. To carry Reduction a majority of all persons voting must directly declare for it. This is strictly logical. There are many, however, who think that in districts where the majority declares—in one way or the other—against Continuance, some concession should be made to a public opinion evidently dissatisfied with the existing state of things. They argue that where more votes are given for Reduction than for Continuance, a reduction should be made as a lesson to the Trade. Doubtless some of the total abstainers who will not vote for Reduction desire to be reckoned against it, but these extremists are few. The usual reason for voting for No License only is sheer misunderstanding, or, at most, a wish to remain neutral in any contest between Continuance and Reduction.

The results of the eight years that have elapsed since the new departure was taken may be easily summed up. In 1894 Reduction was carried in several districts, and No License in one—Clutha. In 1896 and

1899 things were allowed to stay as they were. In 1894 seventy-two licenses were refused, including sixteen in Clutha. Since then there have been no reductions. Yet the growth of the "No-License" vote has been so remarkable that local option clearly has an active career before it. The prohibitionists, still in a distinct minority, are drawing up so fast that they may carry No License in a good many districts in the course of the next ten years. Reduction may at any poll be carried in a number. At the last poll there was a majority for No License in twelve districts, but not the requisite three-fifths; that was only secured in Clutha. Still this was an advance on 1896, when only four districts showed a majority for No License, and the three-fifths majority was reached nowhere.

The reduction of the number of licensed houses since 1893, though not sweeping, is worth noting. Thanks to local option and the action of committees, the number has fallen in eight years from 1719 to 1515. As the population has gone on growing, the proportion of persons to each house, which was 391 in 1893, rose to about 500 in March 1902. In Clutha No License has been the law for eight years, though for the greater part of the time the restriction did not apply to wholesale vending. As might have been expected, a sharp controversy has raged round Clutha and the results of shutting up its sixteen public houses. The district is a quiet place, with some eight or nine thousand souls in it, mainly decent farming folk showing a strong Scottish strain. Its little town, Balclutha, contains just a thousand people. In Clutha, then, you have the kind of placid country-side where the public house is least wanted. The angriest assertions and denials have been exchanged about alleged effects of the experiment. The

Clutha police magistrate condemned it in an official report in which he charged it with promoting sly-grog selling and perjury (as it undoubtedly did), secret drinking, envy, hatred, and malice. Twenty-eight local business men signed a memorandum declaring that their own business and that of the district had been injured. On the other hand, the total abstainers tabled a mass of testimony from employers of labour, schoolmasters, and clergymen; and, as a final broadside, produced the following figures, which, if correct, would seem to settle the question. The figures show the list of crimes and offences in Clutha during three and a half years before the change, and during the same time after it. They are from a prohibitionist source. It is stated, however, that they were copied from the police records of Clutha, and were taken down in the presence of the inspector.

[TABLE.

CONVICTIONS IN THE CLUTHA DISTRICT

	For three and a half years, from 1st January 1891 to 30th June 1894. License Period.	For three and a half years, from 1st July 1894 to 31st December 1897. No-License Period.
Drunkenness	130	6
Breaches of the peace	16	2
Assaults	11	1
Disorderly and riotous conduct	9	1
Lunacy	7	2
Assaulting and resisting the police	4	0
Threatening language	3	0
Cruelty to animals	3	0
Disturbing congregations	5	1
	188	13
Other offences	112	53
	300	66
Sly-grog selling	1	24
	301	90

Suggestive—indeed, more than suggestive—as these remarkable figures are, they are not evidence of the effect of any attempt to exclude alcohol altogether from the electorate, for none has been made. They show the result of shutting up the bars and tap-rooms in a rural county, and they appear to me to prove conclusively that the ordinary grog-shop system of liquor-vending in country places in the colonies is still the direct cause of a frightful amount of needless and preventable mischief and misery.[1]

[1] It will be noted that the figures relate to a period ending in 1897. I therefore made inquiry in 1902 in a trustworthy quarter unconnected either with the trade or the prohibition party. The opinion expressed to me in answer to my questions on the condition of Clutha was, that "it will be safe to say that the good results have been maintained."

In considering the statistics of drinking and drunkenness in New Zealand during the last twenty years, it is plain that the main influences at work are still educative and economic. In the fifteen years of dull times between 1880 and 1895 we see the diminishing consumption of liquor which has marked social life in the colony for a full generation. A very marked revival of prosperity after 1895 has the normal effect—the people at once begin to drink more. The increase is slow, but year by year steady. Here are the figures for 1881, 1885, 1890, 1895, and 1900 :—

GALLONS CONSUMED PER HEAD

Year.	Beer.	Wine.	Spirits.
1881 . .	9·370	0·308	1·064
1885 . .	7·840	0·243	0·825
1890 . .	7·402	0·172	0·649
1895 . .	6·996	0·127	0·593
1900 . .	8·696	0·145	0·684[1]

Unfortunately the increase is not the work of moderate drinkers only. The charges of drunkenness registered in the police courts in 1895 were 4676. In 1899 they had gone up to 6279, and in 1901 they reached 8057. In part this disappointing relapse may be due to

[1] There has, of course, been a corresponding mounting up of the average sum spent in drink :—

Year.	Population.	Cost of Drink.	Cost per Head.
1896 . .	757,503	£2,265,900	£2 19 8½
1897 . .	762,079	2,371,738	3 2 2½
1898 . .	776,288	2,458,998	3 3 4
1899 . .	790,387	2,557,968	3 4 9
1901 . .	803,333	2,747,170	3 8 4½

The figures are compiled by the Rev. Edward Walker. English readers must bear in mind that all liquor, wines and spirits especially, is much more costly in New Zealand than in Europe.

an increase of activity by the police in keeping the streets clear. Mainly it is the consequence of good times.

It would be idle to pretend that the total abstainers in New Zealand are satisfied with the option law, powerful instrument as it may prove to be. They naturally object to the proviso requiring a three-fifths majority to carry No License. Some of them wish to have a fourth issue—national prohibition—submitted to the electors. Many would have the reduction issue cut out, and the choice of the electors limited to Continuance and total Refusal. At present public opinion is against them on all three points, and on the third I believe they are themselves much divided. Their second demand—national prohibition—is hardly yet within the horizon of the practical, and they will have to win many local victories before it comes within it. As yet they are only at the beginning of their district work. The three-fifths majority is certainly a heavy handicap. But it must be remembered that the franchise is adult suffrage, and that, every three years, property to the value of several millions is at stake, as well as the livelihood of some seven thousand persons employed in brewing and selling liquor. Above and beyond this, the liberty and daily lives of the majority of sober residents are interfered with where No License is enacted. To most observers, then, some safeguard will not seem unreasonable, especially as the law fairly stipulates that if licenses are once refused by the three-fifths majority, they can only be restored by as large a vote. A No License victory therefore brings with it something like finality.

A glance at the general position in the seven colonies reveals no experiments in liquor reform that in a teetotaller's eyes will compare with those made in Canada and certain of the United States. Nor will

believers in less drastic remedies find anything rivalling in interest the Gothenburg system, the governmental control now being tried in Russia, the State manufacture of spirits in Switzerland, or the public-house trusts now getting to work in England and Scotland. Almost the only experiment with any freshness about it is the attempt to offer the alternatives of Reduction and total Refusal in the local option polls in Queensland and New Zealand. In Queensland the narrow franchise has prevented much from being done; while in New Zealand, with the widest conceivable franchise, the reluctance of certain conscientious objectors on the temperance side to vote for anything but No License has hitherto taken the sting out of Reduction.[1]

[1] I quote the following table from Messrs. Rowntree and Sherwell's indispensable work :—

SUMMARY OF LOCAL OPTION IN AUSTRALASIA

Colony.	Form of Local Option.	Extent of Prohibition.
New South Wales	Limited option applying to new licenses and transfers only. Hotels with thirty rooms exempt.	No towns under prohibition.
Victoria . .	Limited option for reducing or increasing to statutory limit.	One district (Mildura) under "no license" by ordinance of land owner. Population, 2000; area, 4564 square miles.
Queensland . .	Full powers of local option.	No towns or districts under prohibition.
South Australia .	Limited option applying to new licenses or reduction.	One township under prohibition.
Tasmania . .	No local option law. Majority of ratepayers may petition against the granting, renewal, or transfer of a license; decision lies with licensing authority.	No town or district under prohibition.
Western Australia	Right of protest against new licenses; refusal if majority of ratepayers object.	No towns under prohibition.
New Zealand .	Full local option.	One rural district (Clutha) under prohibition.

Of the seven colonies, two—Tasmania and Western Australia—have but the merest shadow of local option. There ratepayers may petition against the granting of licenses. The decision rests with the licensing bench. Yet we are confronted with a rather startling position. Tasmania is the most sober colony of the seven. To prove this let me quote from Mr. Coghlan's statistics for 1898 the column in which he gives the proportion of charges of drunkenness to each thousand persons in the colonies. There were 51,360 such charges in the year, and the proportions in each colony were as follows :—

	Charges per 1000 Persons.
Western Australia	18·79
Queensland	15·28
New South Wales	14·67
Victoria	11·82
South Australia	5·09
Tasmania	3·49
The Commonwealth	12·54
New Zealand	7·55

I have here quoted the charges and not the convictions, because I believe the former to be a truer index of actual drunkenness. The proportion of convictions to charges in Victoria and Western Australia is absurdly low. I cannot believe that two-fifths of the Victorians and nearly one-half of the Western Australians charged with drunkenness in 1898 were innocent sufferers from momentary faintness or from the stupidity of the police. If it be suggested that the clean charge-sheets of Tasmania merely mean that the law is laxly enforced in the island, an answer is best furnished by the figures with which Mr. Fenton (Victoria) shows the consump-

tion of wine, beer, and spirits in Australia. Here is an extract from them :—

Consumption per Head in three Selected Years

	Year.	Vict.	N.S.W.	Queens.	S. Aust.	W. Aust.	Tasm.
Spirits (gallons)	1891	1·18	1·16	1·15	·65	1·46	·70
	1895	·55	·91	·91	·55	1·78	·37
	1898	·73	1·01	1·01	·50	1·52	·42
Beer (gallons)	1891	16·32	11·39	10·48	...	...	9·97
	1895	11·15	9·04	10·91	9·05	21·04	7·13
	1898	12·06	9·93	10·32	8·92	23·65	7·62
Wine (gallons)	1891	1·72	·84	·64	1·51	4·10	1·22
	1895	1·37	·63	·48	2·31	1·32	1·02
	1898	1·48	·89	·62	1·53	·89	1·04

A simpler method of comparison is to reduce the consumption of all intoxicating liquors to an equivalent in proof spirit. Mr. Coghlan does this for 1898, and his figures indicate that the colonies may be divided into three groups. On a bad eminence stands Western Australia, with an average of nearly five gallons. In the middle comes Victoria with three gallons; Queensland with 2·65; New South Wales with 2·22; South Australia with 2·20. A slightly better place is taken by New Zealand with 1·80, and Tasmania with 1·44. Tasmania's population is clearly the most temperate; unhappily it is also the smallest. In West Australia, in 1898, there were two males to one female, and an abnormal proportion of adults amongst the males. That and the conditions of life on new goldfields explain why it is that the western colony is the worst on the list. On the other hand, Victoria, where the proportion of females is largest, comes next. One apparent discrepancy there is in the usual relation of the rate of

consumption with the ratio of drunkenness. South Australia consumes more alcohol than New Zealand, yet the amount of drunkenness there is distinctly less. The only ostensible cause is that, while the South Australians drink on the average twelve times as much wine as the New Zealanders, their consumption of spirits is smaller. This seems to suggest that there is truth in the common assertion that wine-drinking in Australia does diminish spirit-drinking, warmly as teetotallers assert the contrary. The good places taken on the list by the two last-mentioned colonies might be set down to their excellent primary schools, and to their powerful total abstinence societies. But, then, Tasmania, which is rather behindhand in education, and where there has been no remarkable anti-liquor crusade, has the best place of all. Tasmania and New Zealand are both insular, with cool climates, and make no wine. On the other hand, South Australia is hot and dry, and makes a great deal. Tasmanians are quiet-going people—comfortable, but not rich. The New Zealanders are, perhaps, just now the richest of the colonists. Obviously no single reason will explain why these three colonies are more sober than the other four.

It appears, then, that the effect of local option laws in promoting sobriety in the seven colonies is not yet very clear. To be fair, one must admit that the Australian option laws are partial half-hearted affairs from which not much could be expected. South Australia will be worth watching after 1906. New Zealand is worth watching now. For the rest, if the measure of local option in use in the colonies is evidence of anything, it does but afford one more proof that the utility of an option law depends on the public conscience. In the hands of a community educated to use it, local option

may be a most effectual weapon. Until the process of education has turned a reforming minority into a majority, the direct vote does little or nothing; and, unhappily, the districts which need prompt reform the most are the last that are likely to get it. In the average district stern regulation and discriminating reduction—if they could be got—would at first do much more good than local option. The latter, however, is the only drastic experiment at all likely to be tried in the colonies for many years to come. At present no form of municipal or State liquor trading has the slightest chance of general favour. The many colonists, not teetotallers, who have slowly come to see the intolerable evils of the traffic as now carried on, have to choose between leaving things as they are, and doing the best they can with local option.

CHAPTER IV

THE EXCLUSION OF ALIENS AND UNDESIRABLES[1]

ALONE amongst the chief divisions of the Empire the Commonwealth and New Zealand are not split up by any race-fissures. None of their cities are babels of tongues—none of their streets are filled with dark faces. They escape the double danger which perplexes South Africa, where numerous black tribes, growing ever more numerous, are ruled by two white races mortally embit-

[1] AUTHORITIES.—The Australasian Exclusion Acts begin with the Victorian law of 1855, and end with two laws of the Commonwealth, 1901. The legislation and discussions of 1881 and 1888 are the most noteworthy previous to 1896. The Immigration Restriction Act of Natal was assented to in 1897. Amongst the mass of papers, pamphlets, and writings on the subject may be mentioned: "Correspondence Relating to Chinese Immigration into the Australasian Colonies," English P.P., July 1888; "Chinese in Australia," *Quarterly Review*, July 1888; "Australia from Another Point of View," *Macmillan's Magazine*, March 1890; "Correspondence Relating to Polynesian Labour in the Colony of Queensland, with Appendices," English P.P., 1892; also further correspondence on the same, 1893 and 1895; *The Immigration of Coloured Races into British Colonies*, by A. R. Butterworth (London, Rivingtons, 1898); *The Kanaka Question in Queensland*, by M. Hume Black (London; Lake and Sison, 1894); *Reintroduction of Polynesian Labour into Queensland*, compiled by J. T. Critchell (London, 1892); "Proceedings of a Conference between Secretary of State for Colonies and the Premiers of the Self-Governing Colonies," English P.P., 1897; "A White Australia," Sir H. Tozer, *Empire Review*, November 1901; Dilke, *Problems of Greater Britain*; "Letters from Queensland," by the *Times* Correspondent (London, Macmillan); Report of Dr. Maxwell on Coloured Labour on the Queensland Sugar Plantations, 1901, Australian parliamentary paper. The most able, but also the most violent statement of the case for a White Australia is to be found in the columns of the Sydney *Bulletin*, 1901, *passim*. For Mr. Barton's speech on moving the Immigration Restriction Bill, see Australian *Hansard*, p. 3497; that on moving the Pacific Islands Labourers Bill begins on p. 5492.

tered against each other. They have not even to solve the more delicate and less hopeless questions created in Canada by the presence of the large and fertile French Canadian people, fairly contented, but speaking a foreign tongue, and with a State Church looking to Rome for guidance. With extraordinary good fortune Australia and New Zealand contain neither prolific tribes of aborigines nor alien elements too large to be absorbed in the main British stock. Things might very easily have been otherwise. Nearly 1,200,000 square miles of Australia lie within the tropics, and much of this great area is fertile and well-watered. Placed, as tropical Australia is, wellnigh against Asia's southern gates, it seems astonishing that a field so well-suited for Asiatic labour should have lain idle and undiscovered by the East through long centuries. Asia, however, let her chance go by. Tropical Australia has been reserved to be the scene of the first important experiment yet made in acclimatising our race between Capricorn and the Equator. There are black Australian natives, but they are wild men who can neither resist nor mingle with the white race; they simply die out before its march, or flee into the desert, and even in the desert their numbers dwindle. The Maori in New Zealand may not, indeed, be doomed to disappear utterly; but they certainly do not multiply, and are a mere handful at most. Of the whites in the seven colonies ninety-five per cent are either colonial-born or British, and of the sprinkling of foreign Europeans two-thirds come from the kindred races which blend most quickly and completely with ours. Even when immigrants of these races — the German and Scandinavian—are planted on the soil in small separate settlements, the process of fusion with the British soon

begins. Few of the new-comers cherish any hope of returning to their native land. They become naturalised in hundreds every year, under the easy colonial laws, only one of which—that of New South Wales—is severe, and that demands from the applicant but five years of residence. Most of the Teutonic settlers learn English with little delay. Their children marry and are given in marriage amongst the British. Some of them move freely from district to district as the changes and chances of life require, and, after a generation, well-nigh the only traces of foreign settlements are a few non-English names and a rather larger allowance than usual of blue eyes and flaxen hair in certain neighbourhoods. Yet fortunate as the colonies have been and are in escaping the troubles bred elsewhere by diversities of race, language, and religion, their attractions have brought upon them immigration problems which, though not impossible to solve or likely to be lasting, are troublesome enough. The first of these is the inflow of coloured aliens. The second is the nuisance caused by the European practice of shooting moral and physical rubbish into young countries as though these were made to be treated like waste plots of ground in the environs of cities where sanitary arrangements are primitive.

Dark immigrants into Australia have been of three colours—yellow, brown, and black ; and, for discussion, may be further divided into those who come spontaneously, and those who are induced to come by colonial capitalists whose agents transport them to Australia. Under the last head come the black Melanesian labourers —the Kanakas—who are picked up in the islands of the Western Pacific and carried in thousands to work on the sugar plantations of Queensland. Under the first

head come the Asiatics, yellow and brown, who require no coaxing or fetching to bring them to the colonies. They come of their own accord only too readily; the difficulty is to keep them out. For steam has brought Australia within a few weeks' voyage from the swarming hives of Southern and Eastern Asia, within easy reach of races which, though without the ability to discover the Far South for themselves, or build a civilisation there, are prepared in multitudes to use the discoveries of the white man and build on the foundations laid by his pioneers. Among Asiatics, much the most formidable migrating race are the Chinese, the tough people who can labour in almost any climate, who can shovel earth and outwit customers as imperturbably in the Alpine valleys of South New Zealand as on the scorched plains of the Darling, or the steaming flats that fringe the Queensland rivers. By the side of the Chinaman, the brown man from British India, who dislikes cold and does not come to the colonies to tackle hard manual toil, but to ramble about as a huckster, seems a mild kind of gipsy.

Chinese were heard of in Australia as long ago as 1848, when the Queensland squatters were employing a number of them as shepherds. A few years later, during the rush of gold-diggers to Victoria, their first serious influx began. They landed in thousands at Port Phillip, bound for Bendigo and Ballarat. The whites were quick to take the alarm, and for nearly fifty years colonial law-makers have been endeavouring to bar the yellow men out. Though hampered now and again by the Colonial Office, baffled at times by the employing class in the colonies themselves, and looked on with abhorrence by a certain humanitarian school, as well as by those economists who think that the chief use of man

is to produce wealth as cheaply as possible, the law-makers have had their way. The exclusion Acts are slowly doing their work, and the Chinaman seems destined to go.

The statistics of New South Wales through forty years show that the Chinese there fluctuated from 7220, their lowest number, to 15,445, their highest. The latter figure was reached at the end of 1888. In 1852 there were said to be 2000 Chinese in Victoria; in 1859 they were estimated to number 42,000 there. Then they began to diminish, and in 1863 were but 20,000. For a generation thereafter, however, they went on landing at Melbourne at the rate of about 600 a year. Meanwhile, in Queensland their number grew to be 18,000 or 19,000 in 1879. In New Zealand the census officers enumerated 5004 in the year 1881, of whom more than a thousand had landed in the islands in the year previous. At none of the ports in the colonies was it ever found that the yellow people were bringing their women with them. Out of the 14,000 living in New South Wales in 1891 only sixty were women. The men came, to be strangers and sojourners in the land, without families, without capital, without knowledge of the English language or English ways. As a rule, after scraping up about a couple of hundred pounds by manual toil or by retail trading of the humbler sort, they went back to China, unregretted and, we may well suppose, unregretting. Some died before the time of returning arrived, and all that their countrymen could do was to send their bodies back to China, that their dust might mingle with the earth of the Flowery Land. A very few—one in fifty, perhaps, —found white colonial women who would marry them. These settled down. The Chinese were seldom perse-

cuted, or even molested, in any colony. Lord Carnarvon bore witness in the House of Lords in 1888 that their treatment had been mild and satisfactory. To be teased by a knot of boys, or have a chance stone thrown at him by some larrikin, was about the worst even a solitary Chinaman need expect. They were simply shunned and disliked. When they were first seen on the Victorian goldfields, Governor Sir Charles Hotham—the reverse of a demagogue—reported to the Colonial Office that he found them undesirable immigrants. A majority even of the wealthier colonists thought from the first that their presence in the country was a mistake. Free Traders joined with Protectionists in voting for their exclusion. To the workmen and smaller shopkeepers they seemed a form of competition at once unclean, unnatural, and unfair. What with their own readiness to return to their country, public repugnance, and the barriers built up higher and higher by the exclusion laws, the Chinese had always an uphill fight to maintain their numbers. Only the arrival of fresh drafts from China kept them from disappearing. In 1891 the number of them in Australia and New Zealand was estimated to be still 42,521, thus distributed :—

New South Wales	14,156
Victoria	9,377
Queensland	8,574
South Australia	3,997
Western Australia	917
Tasmania	1,056
New Zealand	4,444
	42,521

The census of 1901 showed a diminution in five colonies :—

Chinese in 1901 (Census)	
New South Wales	10,901
Victoria	6,814
Queensland	9,313
South Australia	2,765
Western Australia	1,569
Tasmania	484
New Zealand	2,792
	34,638

It showed likewise that the Chinese had ceased to be the only immigrating race to cause anxiety. In Queensland the number of coloured aliens increased from 19,866 to 23,635, while that of the Chinese there only went up by 739, and that of the Pacific Island labourers went very slightly down—from 9428 to 9327. Queensland, however, though showing the largest influx, was not the only colony in which the coloured element was waxing. Victoria, Western Australia, and the Northern Territory were in the same plight. A return prepared by the Federal Government showed that on the whole the arrivals of coloured men in the Commonwealth exceeded the departures in the six years between 1895 and 1901 by 5518. The enumeration for each year (1st July to 30th June) has been—

	Arrivals of Coloured Aliens.	Departures of Coloured Aliens.	Increase.
1896	3,370	2,946	424
1897	3,638	2,885	753
1898	4,142	3,040	1,102
1899	4,245	3,400	845
1900	4,255	3,626	629
1901	4,091	2,326	1,765
	23,741	18,223	5,518

The upward movement was entirely due to an inflow into the above-mentioned portions of the

continent. On the other hand, in New South Wales only 328 Chinese had come in, whilst 2296 had gone away. In the separate colony of New Zealand the number of Chinese had shrunk in ten years from 4444 to 2857, and the number of other aliens of colour was insignificant. Broadly speaking, over the seven colonies in 1901 the influx of Chinese had been reduced, but the presence of other Asiatics and of black labourers from the Pacific called for action.

An outline of the exclusion laws of the latter half of last century will fully explain the arrest of the Chinese influx. The student of these laws, indeed, may feel puzzled when he is told that thousands of Chinese are still found in the colonies. The Colonial Parliaments, as I have said, lost no time in attacking the question created by the appearance of the Chinese on the goldfields. No sooner did the colonies gain the right of self-government than the work of exclusion was begun. In 1855, new-born Victoria passed a restrictive law imposing certain duties on masters of ships bringing Chinese passengers to the colony. The measure was pleasantly called "An Act to make provision for certain immigrants," and provided that no ship was to bring more Chinese passengers than one for every ten tons of its tonnage. Moreover, for every Chinese who might land in Victoria the shipmaster had to deposit £10 with the collector of customs. The money so paid was to form a fund for the relief and support of any Chinese who might become a charge on the public funds. The Victorian Act was adopted by South Australia in 1857, and by New South Wales in 1861, in spite of some show of opposition by the Legislative Council in Sydney. The Colonial Office allowed both laws to receive the Royal assent. The

Victorian remained in force for about eight years, and that of New South Wales for about six. They were repealed partly because the Asiatic stream had slackened for a time, and partly to please the Colonial Office. It was not until 1876 that any conflict took place between the Imperial Government and any Colonial Parliament. In that year the legislature of Queensland imposed a special license fee upon the Chinese working on the goldfields. Governor Cairns reserved the Bill for consideration in Downing Street. The Queensland Ministry protested, on the ground that a governor ought not to reserve any bills beyond those indicated in the Royal instructions ordinarily given to governors. Lord Carnarvon, however, not only sustained his subordinate but vetoed the Bill, and in a well-known despatch addressed to Governor Cairns in March 1877, laid down the principle "that exceptional legislation calculated to exclude from any part of Her Majesty's dominions the subjects of a State at peace with Her Majesty is highly objectionable." The Queenslanders, however, persisted, and, undeterred by this snub, passed next year an Act virtually adopting the restrictions which had in former years been in force in Victoria and New South Wales, and which I have already sketched. A section in the Queensland version of the Victorian law encouragingly provided that any immigrant who left the colony within three years after arrival without having broken the criminal law or received charitable aid should have his £10 landing deposit returned to him. This Act Downing Street permitted to become law.

Ere this the Victorian law of 1855 and the New South Wales law of 1861 had, as we have seen, been repealed; and, outside of Queensland, the Chinese could go in and out of Australia very much as they

pleased between 1867 and 1881. Yet public feeling was by no means asleep, and when the inflow from Hong-Kong swelled again in 1880 and 1881, several Governments were pressed to take prompt action. In consequence, 1881 may be noted as the year in which a new start in the work of exclusion was made. In that year no less than four of the seven colonies—New South Wales, Victoria, New Zealand, and South Australia—passed exclusion laws. The South Australian Act, however, did not apply to the Northern Territory. The four statutes were much alike. Under them every Chinaman was to pay, on arrival, a poll-tax of £10, and, in New South Wales and Victoria, the proportion of Chinese immigrants brought in any ship was not to be more than one to every hundred tons. In South Australia no Chinese might land unless he had been vaccinated. The continental colonies insisted that the poll-tax should be levied on Chinese who crossed by land from one colony to another. Tasmania followed the example of her four neighbours in 1887, and before she did so Queensland had gone beyond them all. In 1884 the northern colony found it needful to stiffen her law and to enact that the poll-tax should be £30, that it should not be refunded to Asiatics on leaving the colony, and that the proportion of immigrants to ship's tonnage should be one to fifty tons. The four colonies which had passed exclusion laws in 1881 were content to do nothing further until 1888.

In 1888 there was something like a sudden panic. The official figures for the previous year showed that nearly 4500 Chinese had entered New South Wales in twelve months. Rumours went about of a great influx into tropical Australia. In Victoria the arrivals had gone up from 327 in 1882 to 1108 four years later. Sir

Henry Parkes, Prime Minister of New South Wales, addressed a memorandum to the Imperial Government urging that the Foreign Office should negotiate for a treaty with China similar to that just then secured by the United States. Sir Henry pointed out that the matter was too grave to admit of long delay, and that if protection could not be given by England the Australian Parliaments would have to act in self-defence, however much irritation they might cause in the East. The memorandum was telegraphed home by Governor Lord Carrington, and was undoubtedly an able and temperate document. Whether the Imperial authorities would have been able or willing to do what was asked is not known. What is certain is that Sir Henry Parkes gave them no time to try diplomacy. His appeal had been all that was mild; his conduct thereafter was all that was hasty. No man could discuss the principles of co-operation and concord with more gusto than he; he seemed to enjoy it. But when it came to be a question of action he was wont to go his own way, and not to stick at a trifle. A principle is one thing—an emergency is another.

The emergency came in this way. In the month of April the steamer *Afghan* reached Port Phillip with 264 Chinese on board. Under the Victorian law, which had then been in force for seven years, the *Afghan's* legal complement was 14. Certain of her Chinese passengers claimed that they were naturalised British subjects, and therefore had a right to land. They showed naturalisation papers, some of which were alleged to be fraudulent. At any rate, the collector of customs refused to let any of the *Afghan's* Chinese land, and there was a great ferment. The *Afghan* went on to Sydney, and there, with three other steamers

also carrying Chinese, was at once met with a similar refusal. Parkes, backed by his party in the Lower House, suspended the standing orders in that chamber, and in a few hours passed a drastic exclusion Bill. A very lively tussle ensued. The Upper House threw the bill out. The Chinese on the steamboats in Sydney Harbour, when prevented from landing by Parkes's policemen, appealed to the Supreme Court. The Australian judges held that those of them who were British subjects, or had lived in New South Wales previously, could land, and these did land. The rest, aliens and new-comers, had to go away.

In June an intercolonial conference was held, at which all the Australian Governments were represented. There resolutions were passed affirming that Chinese immigration could best be restricted by diplomatic action of the Imperial Government and by uniform Australasian laws. The conference indicated that the exclusion of Chinese should be general, with specific exceptions; that the Chinese passengers in any ship should not exceed one to every 500 tons; and that for Chinese to cross the border from one colony to another should be made a misdemeanour.

No one, however, waited for Imperial diplomacy. Parkes, who was the first Prime Minister to act, characteristically went to work within a few weeks of his rebuff by Legislative Council and Supreme Court. Public opinion was with him, and this time he was not to be denied. A second exclusion Bill was quickly forced through his Parliament, and became law in July 1888. Short of shutting out all Chinese, in so many words, the measure could hardly have gone further. It raised the poll-tax from ten pounds to one hundred, and the tonnage proportion from a hundred

tons to three hundred. No Chinese was henceforth to engage in mining without the consent of the Minister of Mines, and no Chinese alien might be naturalised. The penalty for a breach of the law was made as high as £500. The only concession to any scruples the Colonial Office might feel on the matter was that Chinese who were British subjects were exempted. The Act was assented to in London, and there can be no question of its effectiveness. In 1887 the Chinese who entered New South Wales numbered 4436. In 1889 the number of arrivals was nine. Ten years later it was thirty-six, of whom only five were aliens. Theatrical as Parkes's manner had been, he had done his work thoroughly.

Out of the exclusion of the *Afghan's* passengers at Port Phillip arose the noted lawsuit of Chun Teong Toy *versus* Musgrove. This was a suit brought by one of the *Afghan's* Chinese against an officer of the Victorian Government. It became a test-case on the unrestricted right of Colonial Governments to shut out aliens. After a delay of many months, judgment was finally given in favour of the Government. It was decided that no excluded alien, however hardly used, had any remedy at law against a colony. As a security to Australia and New Zealand the decision in Chun Teong Toy *versus* Musgrove may be held worth many statutes. Oddly enough, the colonies owe their victory not to any law court of their own—for the Supreme Court of Victoria decided against them—but to the English Privy Council, the Imperial Court from which they have lately been trying to cut themselves off. It was the Privy Council which in 1891 declared that no alien debarred from landing in Australia had any right of action against the local Government. Briefly, the meaning of

this is that, except by going to war with the colonies, no foreign power can force them to receive a single alien against their will. Long before judgment in the test-case was delivered, Victoria, correctly adhering to the lines laid down by the inter-colonial conference but ignored by New South Wales, passed a law in 1888 fixing the tonnage proportion at one passenger to five hundred tons. Under this Act the poll-tax was abolished, but any Chinaman who attempted to enter Victoria by land without the Governor's permission was to be fined not less than £5 or more than £20. Twelve years' experience has shown that this law is not nearly as effectual as that of New South Wales.

The Australian panic was felt in New Zealand, whither a hundred Chinese from the steamer *Afghan* who had not been allowed to land in Melbourne had been taken on. The Government, fearing that the process of throwing on to their shores cargoes of coolies which had been shut out from Australia might become regular, resorted to the makeshift defence of proclaiming the Far East and the Malay Archipelago infected countries. This gave them the power of detaining in quarantine all ships coming thence. As a matter of fact, however, no use was made of the device, and the Order-in-Council declaring the Far East infected was quietly forgotten. The New Zealand Parliament was content with a mild amendment limiting somewhat more strictly than before the proportion of Chinese passengers to tonnage. It made it one passenger to a hundred tons, and the colony was satisfied for another nine years to let the poll-tax of £10 remain unaltered. It was not until 1896 that, after a struggle with their Legislative Council, the Government of New Zealand managed to have the tax raised to £100.

With this we come to the end, for the present, at any rate, of restriction laws aimed solely, and in so many words, at Chinese. Except the one law in New Zealand in 1896, no special anti-Chinese Acts have been passed in the last twelve years. This has been due to two reasons. First, the exclusion laws have in several colonies been effectual. Then, other Asiatics have begun to enter the colonies in sufficient numbers to excite dislike and uneasiness.

Any one reading the text of the colonial Chinese exclusion Acts is at once struck with the extent to which, under their provisions, responsibilities are placed and penalties may be inflicted on shipmasters and shipowners. Much in the laws, indeed, seems aimed rather against British shipping companies than at passengers from China. It is indeed the case that the colonies believed in past years that they owed to certain British steamship owners in the Orient any risk they were running of a yellow influx. The Chinese immigrants, whom they were trying to shut out, were not shipped from China itself, but were brought down to Hong-Kong in small parties by British agents, and taken to the colonies by way of Singapore; and the Australians, when criticised in England for their "selfish" exclusion policy, felt with some bitterness that their national life and future were being endangered by the same British trading spirit which, while poisoning Chinese with opium in the interests of India, was ready to champion the cause of China when money was to be made by swamping Australia and New Zealand with yellow barbarians. The British authorities at Hong-Kong and Singapore might easily and quietly have discouraged the emigration without giving the Chinese Government any valid cause of complaint. They did

not do so. It was believed twelve years ago that the Colonial Office was willing to authorise them to act, but shrank from conflict with the shipping companies.[1]

The figures of the census of 1891, showing as they did that the Chinese in the seven colonies numbered less than 43,000, did much to allay public feeling; and the whole question of alien immigration might have been let alone for some time had it not been for perennial discontent amongst the whites in Queensland with Kanaka labour in the sugar-fields. A certain number of Japanese, too, had found their way to the northern extremity of Queensland. Then, singly, or in twos and threes, a vagrant people from British India began to stray through all the colonies, where they moved from place to place, hawking and peddling. They were brown men, and were sometimes called Afghans, but usually went by the odd name of Assyrians. They competed with the smaller shopkeepers, roused the suspicions of the work-people, and had the disagreeable social characteristics of low-caste Orientals. Partly at least to deal with them, a conference of the Australian Governments was held at Sydney in March 1895, the outcome of which was another batch of exclusion laws passed in 1896. These were Acts aimed, for the first time, not at Chinese alone, but at all coloured Asiatics and Africans. Almost simultaneously New South Wales, South Australia, and Tasmania endeavoured to extend the anti-Chinese law to other coloured aliens. New Zealand made a similar attempt, but, oddly enough, exempted British Indians. All the bills were reserved for consideration at home, and the Colonial Governments gradually discovered that none, except

[1] *Quarterly Review*, July, 1888.

Tasmania's, were to have the Royal assent given them.

The Colonial Office, which in 1896 was in the somewhat unusual position of having a man at its head who had a mind of his own, had at length adopted a definite policy towards colonial restriction laws. This policy has been since adhered to, and to induce the colonies to accept it, both persuasion and passive resistance have been successfully employed. The policy is that for the future exclusion laws are not to be aimed at the people of any nationality, but at undesirable persons generally. It is ostensibly a proposal to judge immigrants less by race and colour than by quality. A common form, showing the kind of law which Downing Street is prepared to agree to, is found in the Natal Restriction Act of 1897. The immediate object of the Natal law was to check the flow of coolies from British India. It effects this by excluding the following classes of persons of all nations:—(*a*) Any person who when asked fails to write in some European language an application for admission to the colony; (*b*) A pauper or person likely to become a public charge; (*c*) An idiot or lunatic; (*d*) Any person suffering from a loathsome or dangerous contagious disease; (*e*) Any one who has within two years before arriving been convicted of a serious non-political offence; (*f*) A prostitute or person living on the earnings of prostitution.

Any person of the prohibited classes who tries to enter the colony may be imprisoned for six months, unless he is deported, or finds two approved sureties for £50 each that he will quit Natal within a month. Penalties as high as £100 for each immigrant, or £5000 for each shipload of them, are imposed on the master and owners of vessels bringing prohibited persons to

the colony. Altogether the law is quite likely to be effectual in barring out the poorer sort of Asiatics, though it will not effect all Japanese if, in days to come, large numbers of them, as seems probable, learn English.

When the Imperial Government does not wish a colonial Act to become law the King need not formally veto it. All that is needed after the Viceroy has reserved the measure for His Majesty's consideration is to do nothing at all. The Royal assent is not given, and after a year the Bill lapses. This was the fate of the Asiatic Restriction Bills of 1896. Anxious inquiries at Downing Street only elicited the assurance that the important matter dealt with in them would be discussed by Mr. Chamberlain in conference with the Premiers of the colonies on their visit to London to attend the Jubilee of 1897. It was discussed accordingly, and the Premiers acquiesced in the fiat of the Colonial Office and accepted the Natal Act as the basis of future laws. They were quite acute enough to perceive that it mattered little to them whether an undesirable alien was to be shut out for being a Hindoo or for being unable to write in English, French, or German ; until Asiatics are highly educated the result would be much the same, and if the new method pleased the English Government, so much the better.

New South Wales, New Zealand, and Tasmania at once set themselves to legislate on the new lines. It is interesting to note that, while following the Natal law generally, all their Parliaments modified it, and in all cases made it less stringent. New South Wales struck out five of the six prohibited classes enumerated in the Natal Act; Tasmania was satisfied to omit the last ; New Zealand to leave out the second and last. New

Zealand showed her attachment to all that is British—even to the illiterate Briton—by stipulating that the writing test should not be applied to persons of English or Irish blood. Western Australia, on the other hand, which dealt with the question somewhat later, adopted all the Natal prohibitions, and also the penalties, saving only that the highest fine to be inflicted on the masters and owners of a ship was reduced from £5000 to £500. But provisos were inserted that the Act should not interfere with the importation of coloured labourers into that part of Western Australia which lies north of latitude 27° south. In the tropical half of the colony they are employed in pearl-fishing and other work, and their importation and employment are regulated by special laws, "The Imported Labour Registry Acts" of 1884 and 1897. Queensland was satisfied to deal with Japan by negotiation.

The practical application and result of these laws were thus summed up in the Sydney *Daily Telegraph* in 1901:—

> The reading and writing test was first enforced in Natal in 1897. The immigrant had to write out an application in the characters of any language of Europe, and in a certain stereotyped form. The weak spot in this provision was the use of the same set of words in every application, which was therefore easily mastered by even the most ignorant. In the same year West Australia improved on the Natal model by requiring the immigrant to write a passage in English of fifty words in length, taken from a British author. New South Wales followed in 1898 with a copy of the Natal clause, supplemented by a provision for the alteration of the form of application from time to time. Tasmania in 1898 legislated for the writing of an application in some European language. The New Zealand Act of 1899 enacts that every immigrant of other than British or Irish birth or parentage shall submit to a writing test in any European language. The Victorian Bill, as passed by the Legislative Assembly, is a copy of the New

South Wales clause, while the South Australian proposal, which has not yet become law, stipulates that the test shall be fifty words of English.[1] It will be noticed that in most of the above-mentioned Acts the writing test includes any European language. This avoids the difficulty which might follow upon any attempt to prohibit the immigration of Europeans other than British, but offends the susceptibilities of Japan by making the qualification solely European.

In 1900 the Government of Queensland came into collision with Mr. Chamberlain's policy. For some seven years Queensland had, under laws entitled "Sugar Works Guarantee Acts," been giving State aid to central sugar-mills, and had lent large sums of money for these under certain conditions. One of these conditions disqualified Kanakas from doing mill work. In an Amendment Act passed for the purpose of enabling further sums to be granted, words were inserted debarring other coloured aliens as well as Kanakas. The Colonial Office objected to this, ostensibly on the ground that it would affront Japan, and the Royal assent was not given to the Bill. As, however, in the interval the Federal Government had come into existence pledged to deal with the matter, the general question of alien immigrants passed from the State to the Federal Parliament. So the vetoing of the Queensland Bill was quietly taken. People were waiting to see what Mr. Barton's policy would be.

They did not have to wait long. Supported or propelled by the Labour party, Mr. Barton decided to deal with the exclusion question at the outset of the first Federal session. He had, however, the claims of Imperial policy before his eyes, and was satisfied to adopt generally the Natalian law and impose a simple writing test. The fifty words dictated to and written

[1] The Victorian and South Australian Bills here referred to were not passed.

by the immigrant were to be of any European language required by the customs officials. Mr. Barton stated that the test would not be applied at all to European immigrants who were manifestly desirable citizens. He also undertook that the selection of the language in which the test was made should not be capriciously made. A special clause in the Bill prohibited the bringing in of labourers under contract to do any work in the Commonwealth. The only exceptions permitted were skilled workmen of special knowledge and the crews of vessels intended for the Australian coasting-trade. Following the New Zealand precedent of 1896, it was stipulated that such seamen were to be paid at the rate of wages current in colonial waters. This is now the law of the Commonwealth, and there at present the general question of the exclusion of aliens from Australia rests.

The peculiar problem supplied by plantation labour in Queensland then remained to be specially dealt with, and to deal with it was the next task of the Barton Government. It was a harder nut to crack.

If, to-morrow, the colonies were to adopt a bag-and-baggage policy with Asiatics, and expel the whole brown and yellow element at six months' notice, no great material interest would suffer. Such an action would be cruel, and might do great moral harm, but it would not injure a single important industry in Australia or New Zealand. The case of the Kanaka labourers of Queensland is different. It is by importing and using them that the sugar-planters there have built up their business. In the belief that black labour would be available, some six millions sterling have been invested in sugar-planting, and sugar is now one of Queensland's main products. The output fluctuates

with the wet and dry seasons, but grows, and may fairly be reckoned as worth a million sterling a year, or, with by-products, a million and a half—as much as the output of the butter factories of Victoria. Even with modern machinery, it takes nine tons of cane to produce a ton of sugar, and the labour required for the plantations is therefore large. Between 8000 and 9000 Kanakas are regularly employed to furnish it, or rather such portions of it as the law allows; for the Kanakas may only work at tropical or semi-tropical agriculture, or at the actual handling of the cane. Much mill work and incidental labour about the plantations is reserved for whites. So jealously is this done that, though during the last nine years the output of sugar has doubled, the number of black labourers used is no more than it was in 1892. Sugar-planting, therefore, provides employment and good wages for fully 3000 whites, over and above the cane-planters, large and small. Since the big plantations began to be broken up, and small farms, feeding large central sugar-mills, began to take their place, the number of white cultivators has, of course, multiplied. In 1885 it was trifling; in 1900 there were 2600 planters in Queensland.

As all the world knows, the Kanaka plantation hands are picked up in the islands of the Western Pacific and carried to Queensland in labour schooners. This recruiting, or enlisting, as it is termed, was begun forty years ago. For some time private enterprise was allowed free play therein, with consequences which shocked humanity Then, in 1868, the State stepped in, and the labour traffic gradually ceased to exhibit certain of the features of the old African slave trade. To-day, it probably shows as few abuses as any system can under which the labour of savage and inferior tribes

is exploited by a stronger race. It is vigilantly supervised, and is not unpopular amongst the islanders. Many of them willingly stay on in Queensland after their term has expired, or even re-enlist after returning to their island homes and living awhile amongst their kinsfolk. When on the plantations they work from nine to ten hours daily. The food given them is good and abundant; they are passably well clothed, and roughly housed. The State sees to it that their wages —from £6 to £24 a year—are paid to them in gold. Missionary work is done amongst them; and though it is impossible to rate the Queensland labour traffic as, on the whole, a Christianising influence, the observers who have called it so need not be branded as hypocrites.

On the other hand, the labourers are savages. Though called Polynesians, very few of them belong to the fine, intelligent, brown people of the Eastern Pacific. They are black, sullen-looking Melanesians from the Western islands—a fierce and lower race. Of medium height, and not ill-shapen, they are not a tough people, and the mortality on the plantations is heavy. In six years (1887-92) no less than 2700 luckless islanders died in Queensland. It is only fair to say that the death-rate fell during these years, and has fallen lower since. It still, however, ranges from 30 to 40 in the thousand, and is three times that of the Queensland whites. There are those who would explain away the significance of this by arguing that the death-rate in most of the Pacific Islands is probably high. But, then, the plantation hands are carefully selected, and are mostly strong men, young or in the prime of life. The death-rate amongst white Australian workmen, picked with anything like equal care, would certainly not be more than 5 in the thousand. Kanakas are occasion-

ally violent, even murderous. Now and then bodies of them indulge in wild orgies, and the spectacle of a crowd of black men excited by drink and opium is not attractive. Kanakas may learn something of the virtues of civilised life; they certainly make acquaintance with several of its vices.

The advantages of black labour on the plantations are two: it is cheap, and it is in regular supply. The stress of plantation work is intermittent, and some of it is as trying as any labour that white Australians put their hands to. Cane-growing in the cooler season is not unpleasant; the "trashing" and the cutting in the hot months are different matters. In "trashing," the labourer walks slowly along amongst close-set cane-stalks ten feet high and thick enough to prevent the least whiff of air from blowing through the brakes. The thermometer, held chest high, sometimes registers 120° in the shade. In this suffocating atmosphere the exertion of stripping off with the hand the superfluous under-leaves and sheath from the stalk is a business which may, in its sultriest hours, be fairly compared with shovelling coals in the stoke-holes of Red Sea steamers. The man who earns wages by "trashing" eats his bread, not in the sweat of his brow only, but in the sweat of every square inch of his skin. To suggest that such toil is a light matter to whites is absurd.[1] It

[1] "A dense jungle of Bourbon or other canes. Overhead, anything from 120° up in the sun. Inside, a furnace of shade with not a breath of air; but worse to follow, for every leaf that one tears away or 'trashes' liberates a host of invisible spikelets of some description, which fasten upon the skin and set up a horrible irritation.

"This subtle dart pierces even the clothing which is worn in those latitudes, but it touches not the velvety epidermis of the naked Kanaka, who laughs at such work, and is as much in his element in this suffocating prickly thicket as he would be were he sporting instead in the river near by.

"One case in point will suffice, and can be proved up to the hilt, were proof required. Some forty white men—diggers out of work—came to the plantation

is, however, going too far to assert that white men cannot do the work. They can and do. There are small cane farmers in the Mackay and Bundaberg districts to-day who tackle every kind of outdoor work that planting requires. In the river valleys of Northern New South Wales sugar is grown with but little coloured labour; 600 whites work in the cane-fields there in a climate not very much cooler. A hot day by the river Clarence is very like a hot day near the river Mary. Any difference seems about that between toasting and simmering. The notion that white men cannot work out of doors under the Queensland sun is disproved daily by thousands of examples. Not only in the Bundaberg and Maryborough country, which lies south of Capricorn, but further north, in the Tropics proper, white men make roads, ballast railways, and plough and sow, to say nothing of doing the work of shepherds and stockmen; in the towns they work as builders and carpenters, and in seaports as lumpers and wharf-labourers. They could take the places of the 9000 Kanakas whom the planters regard as the irreducible minimum of black labour required by the plantations, and could do the work which the islanders do rather better than it is done now. But they would demand white men's wages. They would not work for rations, five to forty shillings monthly, a rough hut, and two suits of coarse clothing a year.

Dr. Maxwell, the sugar expert of the Queensland

of my friend and asked for a job at anything. The place was full up with hands, and they were told so, but were also informed that they might as extra men try 'trashing' if so inclined. They jumped at the chance. 'What! Pulling off leaves and good pay for it!' But in a few days out they came and begged for any other job in the world. They then exposed their arms, chests, and backs, and wished further to exhibit their legs. Their whole bodies were in a state of inflamed eruption."—E. B. KENNEDY in the *British Australasian*, October 1901.

Government, in his report on the planting industry in 1901, computes the average wages paid to white plantation hands at 5s. 2d. a day. The daily cost of the Kanaka to his employer he rates at 2s. 3d. The white labourer is admittedly the more efficient, but no sugar-planter in any part of the world pays his field hands 5s. 2d. a day. Moreover, to arrange for full supplies of reliable white labour at the busy seasons would not be easy as matters now stand.

The colony has allowed the sugar industry to grow up leaning on the black labour. The planters have a strong case when they urge that a sudden expulsion of the islanders might ruin them, and that Queensland is morally bound to try every rational alternative. In 1885 Sir Samuel Griffith and the Progressive party in Queensland passed a law that after five years no more Kanakas should be enlisted. The announcement did not ruin the planters. It did check the growth of sugar-production. That stood still for seven years, until, after the postponement of the exclusion proposal, the season of 1893 showed an increase. If Australia were governed by rigid English free traders, she would have to choose between the ruin of the planters or the permanent use of coloured labour. If her rulers belonged to the English middle class, there is no doubt of the choice they would make; they would retain the coloured labourer—making, it may be, more provision for his religious instruction and for the inspection of his huts. As the Australians govern themselves and have manhood suffrage, they have the power to wipe out the black spot on their map. They will have a white Australia, cost what it may. No material interest of any class, however powerful or useful, will make "Piebald Australia!" a winning cry at election-time. The

control of immigration has passed from the local to the Federal Parliament, and, thanks to the prohibition of plural voting at Federal elections, a majority of the men whom Queensland sent to the Federal Parliament are against coloured labour.[1] The other States of the Federation have respected the mandate of the State chiefly interested. The Kanaka must go. Fortunate as this is for the future of the continent and the democracy, it has imposed a difficult task on the statesmen of the Commonwealth. A way out of the entanglement has been supplied by a customs duty on sugar high enough to secure the Australian market for the sugar-planters, and to enable them to tide over the troublesome business of gradually filling their Kanakas'

[1] This racy jingle, from the Sydney *Bulletin*, expresses well enough the spirit of the movement called by the excruciating name, "Anti-Kanakaite":—

WHITE AT THE CORE!

(*Queensland Fed. Election Verdict, 1901*)

We harked when they told us again and again—
That the Lord had intended our upland and plain
As a nest for the nigger, the Jap, and the Chow,
Our land as a prize for old Greed and his plough.
We harked and we swore,
As they raved and they tore,
We would show them our country was White at the core.

'Twas ruin (they bellowed) to give up the Black,
Our life was the sweat of a poor nigger's back;
Our race was too puny to grapple with cane,
We were wanting in brawn and we hadn't the brain,
And they chanted it o'er,
As they'd chanted before,
Never dreaming the country was White at the core!

We listened—we laughed, and we waited our Day,
And marshalled our men up in battle array.
Our bugles they blew, and this burden they bore:
"The country we live in is White at the core!
White evermore,
Inland and shore,
White in its dealings and White at the core!"

Alack for the coddlers of Black and of Brown!
The *colours* they loved—and their colours are down.
They see a free race in the land at their side,
For the Freeman has proved that they damnably lied.
He has settled the score
And the quarrel of yore
By the answer he gave 'em of "White at the core!"

places with competent white labour and labour-saving machinery. The Pacific Islands Labourers Act of the Barton Government puts an end to all agreements with Kanaka labourers after the last day of the year 1906. After that date all Kanakas must go. Meanwhile, under the Federal tariff, a duty of £6 a ton is placed on foreign-grown sugar imported into Australia. The excise duty on sugar grown within the Commonwealth is to be but half as much, and of this £2 a ton is to be handed back to planters who grow their sugar entirely with white labour.

In the course of his speech on the second reading of his Labourers Bill, Mr. Barton thus justified this policy :—

Putting aside all questions but the one great question of right and wrong, this Government thinks that the traffic in itself is bad, and must be ended. The traffic, we say, is bad, both for the Kanaka and for the white man. It is bad for the Kanaka, because it is not inaptly described by Mr. Morehead as limited slavery. In some aspects it must be slavery. The difference in intellectual level, and the difference in knowledge of the ways of the world, between the white man and the Pacific Islander is one which cannot be bridged by acts or regulations about agreements. The level of the one is above that of the other, the difference being one in human mental stature—of character as well as of mind—which cannot be put aside by passing 50 laws or 1000 regulations. There must be an inequality between these two classes of people when they come to an agreement, and when we consider the question of getting a man—no matter under what regulations or control—from his native island, and asking him whether he understands under what conditions he is to serve in Queensland ever so many miles away, is there any one here who believes that the understanding of the man who explains is the same as the understanding of the man who listens, or that the listener is capable of understanding the facts that are mentioned to him? Even when the recruiting ship arrives in Queensland, and the agreement has to be signed before the Government agent, however much a man may appear to under-

stand, his degree of understanding can only be measured by his mental capacity, and that no statute can enlarge. He cannot be made to understand the conditions of his engagement. He may be brought to a state of partial understanding, but it is impossible to say that he can have a degree of contracting capacity equal to that of the man who is dealing with him. . . . The traffic is bad for the white man—both for the employer and the white population generally; and on this head may I use a few words from the late Professor Pearson's book on *National Life and Character*, from which I quoted during the discussion on the Immigration Restriction Bill. Professor Pearson says: "When he (the black labourer) multiplies, the British race begins to consider labour of all but the highest kinds dishonourable, and from the moment that a white population will not work in the fields, on the roads, in the mines, or in factories, its doom is practically sealed."

The objections of the people of the seven colonies to coloured immigrants—objections which are shared by all but a very few of them—admit of brief and simple statement. Dark races living amongst whites either blend with them or do not. Where, as in the United States, the two colours do not blend, the result is a miserable state of loathing, hatred, and fear, on the heels of which come problems political and social for which the wit of man has yet found no solution. Where, again, as in South and Central America, the white and dark races do mingle, the product is a mongrel and degraded people by no means fitted for free self-government.[1] The choice, therefore, lies

[1] In spots in tropical Australia the beginnings of such a race are already visible. The following extract is from an article in the Melbourne *Age*, 16th August 1899:—

Through the promiscuous intercourse with aboriginal women, a hybrid race is being established in that far corner of the continent such as the world has never before witnessed. To describe some of the children to be seen in the Broome district would utterly puzzle the cleverest ethnologist. The Malay, Japanese, and Philipino have crossed with blacks. The union of former white men and aboriginal women has produced half-castes, who in turn have bred from Chinese, Malays, and Manillamen. Half-castes may have crossed with Quadroons, or Octoroons, and so the mixing up of nationalities and hybrids continues, until "Mongrelia" is literally the name that should be applied to the region. This rising generation inherits all the vices and physical infirmities of the Eastern coolie, who at best is a low type of humanity.

between a condition in which the land is occupied by two sullen and separate camps, or one in which the purity and full efficiency of the superior race is destroyed.

It has been argued that the Chinese are not a degrading element; that they are an industrious, peaceful, and frugal people, with a civilisation, a learning, and an education of their own. It has been said by many Englishmen—by R. W. Dale among others—that the Chinese have been hated in Australia for their virtues, not their vices. The reply to this is that, to begin with, the Chinese are admitted by all observers to be utterly unfit to use political rights in a democracy. They have no conception of government and public duty as these are understood in Europe. Their civilisation is an arrested development, their education petrified, their learning confined to a handful. Their *literati* may be entitled to be called civilised, but the classes from which their emigrants are drawn are not *literati*. Industrious they are, but industry without certain social qualities is a doubtful virtue. A man may be industrious, and yet be dirty, miserly, ignorant, a shirker of social duty, and a danger to public health. All these most of the Chinese immigrants are. It is said that they commit few crimes. A man may be a very undesirable citizen without infringing the criminal law. It is said that without them certain industries, market-gardening especially, would not be carried on. As a general proposition that is sheer nonsense, as every one knows who has seen the white market-gardeners and small farmers. It has long since ceased to have in it any minute amount of truth it ever contained. The Chinese do nothing in the colonies which the whites cannot and will not do. All that they have furnished for many years is an unfair form of competition, degrading the standard of comfort. The

white workman in the colonies is expected to be clean and comfortably dressed; to marry and rear children; to have a home—decent, bright, and which looks a credit to the neighbourhood. His children have to be healthy, well fed, and properly clothed. He has to support them until their thirteenth or fourteenth year. The father and mother are expected to read books and newspapers, and to give a certain amount of time and intelligent attention to public affairs. The Chinaman, when allowed, will live in a hovel and scorn sanitation. No fair national minimum of comfort and sanitation for labour is possible in any land where the Chinaman is freely admitted to compete in the labour market. Without family responsibilities, without social interests, without political knowledge, he comes to a colony to extract what he can from it, and to take his savings back to China. At one time the home-going Chinese were reckoned to be taking, one year with another, an annual quarter of a million sterling away from the colonies. When competing with white men their one idea of competition is undercutting, and in retail trading they are certainly not less deceitful than the meaner whites. Neither they nor the Japanese would permit floods of white labourers and small shopkeepers to inundate the Far East. If such intruders poured in by thousands they would be massacred. All things considered, the right of Australians and New Zealanders to keep their soil for men fit to be free and self-governing is clear enough.

In addition to the difficulties caused by aliens who seek the colonies, and by coloured labourers who are brought there, there is the problem furnished by the undesirable immigrant, whose unfitness is special and personal, and not a matter merely of colour or country.

We are all familiar with the magistrate who instead of sending some promising young criminal to gaol lets him off with a fine because his relatives promise to send him to the colonies. To the colonies are sent the clerk who has robbed his employers and whose friends have made secret restitution; the drunkard or gambler whose family are prepared to pay for escape from his society; the lunatic not too dangerous to be allowed to travel; and the patient too far gone in consumption to hope for recovery. All this wreckage is sent adrift on the ocean to be thrown up on colonial beaches.

When they face the question of dealing with it, colonial law-makers are dragged different ways by the opposite forces of human pity and the need for protecting their own people. While it is creditable to them that they have hesitated to pass severely exclusive Acts, it is none the less certain that they are being forced by the logic of hard facts to follow America's example. The Natal Act already quoted gives power to shut out paupers, lunatics, and criminals, and the colonies, which have copied or adopted it, have therefore the power it gives of closing their doors to such undesirables. Before the date of the Natal Act, 1897, several of the colonial Parliaments had already taken authority to deny entrance to certain classes of grossly unfit persons. As early as 1882, the Imbecile Passengers' Act of New Zealand empowered any collector of customs to require a master or shipowner certified to have brought an insane or hopeless infirm passenger to the colony to enter into a bond of £100 to defray any public expenses laid out on such passengers. Tasmania in 1885, Victoria in 1890, South Australia in 1891, New South Wales and Western Australia in 1892, enacted similar laws under different names. In these the maximum sum of

the bond to be executed varies from £100 to £500. New South Wales and Tasmania included all persons likely from any cause to become a public charge; South Australia put felons in the category; and Western Australia placed on her black list any passenger who is "completely indigent." The New Zealand enactment is the mildest, and it is further to be noted that in the New Zealand version of the Natal law the section giving power to exclude paupers is discarded. At present the island colony is satisfied to rely on its remoteness, and the cost of the voyage to its shores, as its safeguards. For some years, too, it has been very prosperous. Should bad times return and labour be much in excess throughout the islands, New Zealand will probably reconsider the question of leaving an open door to immigrants likely to swell the ranks and the outcry of the unemployed.

No one is more alive than the writer to the natural dislike felt by most people to anything like a severely exclusive law. To a generous mind there is something almost repulsive at first sight in the notion of closing young countries not yet half peopled to any who may go thither to seek or repair their fortunes. Colonists themselves feel this acutely. The founders of the colonies themselves were not made up of the wealthy and more fortunate members of society. Those of them who have thriven in their new homes have, in most cases, begun low down on the ladder. The colonial magnate who is proud to recall the day when he landed without a shilling in his pocket is still to be met with in Australia and New Zealand, though he is not so common now as he was a generation ago. To such a man, as he recalls his own small beginnings and successful struggles, there is something nauseous, if not positively

inhuman, in a proposal to shut the gate of his colony in the face of the penniless immigrant. Joined with this natural and worthy repugnance is something else of a more calculating kind. Colonial employers fear and distrust any law in which they detect a purpose to limit the supply of labour.

At first sight the case for a kindly practice of the principle of *laissez-faire* seems very strong, and we need not wonder that until lately the sentiment in favour of an open door for all white men has easily carried the day. There is, however, a case for the other side, which is strong and growing yearly stronger. It is found not only in the industrial growth of the colonies, but in the peculiar social and political lines on which they are moving. They have become democracies of a socialistic complexion, and the tinge of socialism is deepening. Have such democracies no right to select with care those whom they take into partnership? The logical sequence of the socialistic policy is the recognition by the State of a duty to all willing workers. At present the State does not undertake to find work for everybody who is without it, but the leaders of the governing parties do hold out hopes that they will make all reasonable and prudent exertions to help men to find it. The only limits recognised are financial. Money will not be spent on useless works just because they are relief works. Nor will the State lay out money which it cannot afford to spend even on useful works. The democracy feels the presence of unemployed in the colonies to be a blot and reproach. This feeling is largely one of sympathy and pity, not a mere selfish dread of the competition which may come from the desperate plight of such men. It is because colonists admit some duty to the workless that they are beginning to see the need for guarding

against possible invasions. The prime object of the labour parties must be so to shape laws and policy that "work for all" shall no longer be an ideal and a dream, but a tangible reality. If, however, as fast as this is done, the natural migratory law of population defeats the reformers, their task will be hopeless.

It is an unwelcome task to interfere with the free transit of civilised human beings from one friendly land to another. The law-maker who tries to restrain over ever so small an area the forces of supply and demand becomes the target of much ready-made criticism. Nevertheless, if the conditions of modern industry are to be regulated at all, the so-called "law" of supply and demand must not be allowed to override everything. I see no more unreason in trying to protect a country from possible inroads of destitution than in trying to interfere with unrestricted competition in factories, with sweating, with child labour, with truck, with adulteration, with the employment of coloured labour, or with any other of the bad influences which tend to lower the standard of health and comfort. It is the wish of colonial Progressives that their reformers should not be afraid to lead the way. So far from fearing to see their countries ahead of others in the march of political progress and improvement, they dream proudly of leading on the upward path. Their object is not to remain safely and cautiously on the common level, however good the company there may be, but to raise their countries and the condition of their masses somewhat, if only a little, higher than their neighbours. If they were not succeeding, or were not likely to succeed in this, they might not need to protect themselves by any artificial means against destitute or undesirable humanity. It is because they hope and believe that their natural

advantages and bold experiments will have the result of making happy, comfortable, and enviable lands that they have come to see the necessity of unusual safeguards. Without these, no sooner has a socialistic policy succeeded in raising the standard of comfort in a small country, than destitution, crime, disease, and Asiatic labour, pouring in from outside, begin to undo the work.

The colonial restrictive laws and their machinery are, after all, but a modified edition of the immigration laws actually in force in the United States—laws submitted to as needful and inevitable by the shrewdest, most intelligent, and best educated nation on earth. If it be said that drastic immigration laws are needed by the United States because Chinese, paupers, criminals, continental European labourers, contract workmen, and persons suffering from dangerous diseases, resort to America, and are not desirable recruits for the States, I would reply that such persons, though in much smaller numbers, come to the colonies, and are no more desirable additions in a new country in one hemisphere than in a new country in the other. It used to be the pride of citizens of the American Union that their continent lay open to all. With confidence born of the sap and vigour of national youth they asserted that the new world was big enough, and more than big enough, to find room for the overflow of the old. In their forests or on their prairies the poor could find wealth, the feeble health, the oppressed freedom; even new-comers who had committed grave errors might lead a new life in a land where their past was unknown. Nothing but the inexorable logic of hard experience has converted American public opinion, and caused the abandonment of this cheery national attitude of genial and easy hospitality.

Nowadays the American immigration laws shut out

not only lunatics, criminals, polygamists, and all persons suffering from loathsome and contagious diseases, but almost all Chinese, all paupers, and all persons who are likely to become a public charge. Indeed, an American statute enacts that any assisted immigrant, or any person whose passage ticket is paid for with the money of another, must, before being allowed to land, submit to a special inquiry and show that he or she does not belong to the excluded classes. Nor let it be imagined that this severe and sweeping law has been a mere *brutum fulmen*. It has been made very real by vigilance on both sides of the Atlantic. If unsuitable passengers elude the examiners in Europe, it is only to find that they have again to run the gauntlet at New York. From an American official report, published early in 1893, I quote this passage :—

> The distressed condition of labour throughout Europe tends to increase immigration to America. The number of landings would have increased enormously but for the restrictive features of the law adopted 3rd March 1891. Steamship agents report their refusal to sell tickets to 50,000 applicants for immigration passage. Of the thousands who were deterred from consulting ship-agents by reason of the prohibitive features of the law, it is not possible to estimate. It is evident that the law has exercised a deterrent and wholesome effect upon immigration. The character of the immigrants arriving during the past year is greatly superior to that for many previous years.

France and Germany, as we know, protested when American immigration officers examined in Europe would-be passengers to the States, and prevented diseased persons from going on shipboard. This was but an instance of the rooted belief in the European mind that the new world was made by Providence for the purpose of absorbing all the waste matter and morbid excretions of the old. That those already in

possession in the young communities of the world should have the hardihood to object to their own homes or those of their children being regarded as mere common plots upon which the rubbish of the old world is to be shot, strikes many a European as the height of selfish impertinence.[1] The day has come, however, when North America and habitable Australasia must cease to be regarded as vacant lots. They are now occupied more or less closely by organised communities of highly civilised people, who have not only their own problems and difficulties to face, but are already confronted by a repetition in their midst of some of the most puzzling questions and difficulties of the old world. Of course, there is room in such countries for fresh mouths and hands. But, already, the natural increase there provides many of these, and in dull seasons any indiscriminate influx means not only a burden to the inhabitants but suffering to the immigrants themselves. No one in these countries objects to immigration, but some of us venture to ask for discrimination.

No wonder the American immigration laws are stern. In 1894 the unemployed in the United States were counted by hundreds of thousands, and those dependent on them by millions. It is not selfishness, but common prudence, which has caused the American statute-book to make the Atlantic shipping companies responsible for

[1] A more generous view, however, is not infrequently taken by Englishmen who value colonies. I cut this paragraph from a well-known London newspaper in 1898:—

Sir Charles Cameron is not doing much to promote Imperial loyalty by objecting to the Ontario Government's prohibition of undesirable immigrants. Why should a daughter State taint its blood with the mother-country's refuse? It is a question which the very philanthropic shippers of outcasts from this side might profitably ask themselves. The offspring of criminals, bred in vicious surroundings, is in very much the same class as the convicts with which we used to populate the colonies; but our conception now of the Empire's outlying provinces is somewhat higher than that which passed current as statesmanship in the Botany Bay days. And neither must we be content with such an easy settlement of our duty to our social derelicts at home.

any additions from beyond the sea to such an army of destitution. A country that cannot provide work for all its own empty hands has a right to examine every passenger who seeks to land at its ports, and make him prove that he is not landing to swell forthwith the ranks of the workless and hungry, or recruit the inmates of the hospital or the gaol. The charity that begins at home may not be the highest, but it is the kind that Governments have most need to practise. It is the first duty of any Government to protect its own people.

Few now openly defend the practice of shipping off criminals, lunatics, and habitual drunkards to become the pests of young societies. But many are still found to challenge the exclusion laws which shut out persons afflicted with certain diseases. To refuse admission to consumptives is, above all, stigmatised as cruel. Yet the United States authorities have just decided that a tubercle on the lungs shall henceforth be classed as a dangerous disease, and passengers suffering therefrom be prohibited from landing. Physicians of undoubted humanity have again and again urged that colonial Governments should take the same measure of self-protection. Tuberculosis, that fell disease in whose wake drunkenness and insanity follow, and which in New Zealand has ravaged so terribly the Maori race, is a danger to the public health in the colonies, almost entirely because English doctors persist in shipping off incurable as well as curable patients to the antipodes.

The exclusion of paupers merely because they are paupers stands by itself. It is a hard matter. It is scarcely more than a few years since any healthy white labourer, not notoriously criminal or incurably vicious, was a welcome arrival in the seven colonies. Two

decades ago such a one was rightly regarded as always an addition to the national wealth of the country in which he landed. Some colonies spent borrowed money freely in bringing out labourers. But those were days in which the available land awaiting hands to till it seemed inexhaustible, and when the supply of hands fell short of the demand. Now in most of the seven colonies, though the land is still there, very much of it is either occupied or locked up. While the acres have not increased the workmen have. For such lands as are still to be had in places attractive to small farmers, there are as many applicants as the most zealous Government can satisfy. These things being so, laws which are passed to protect small industrious communities against inroads of pauperism, disease, crime, infirmity, and barbarism have a claim to be judged neither selfish nor needless. If those responsible for the health and wellbeing of the people of the colonies did not recognise any duty to take thought for the comfort and sustenance of all colonists who are willing to labour,—if, even, they were ready to let strangers landing on their shores take care of themselves, and sink or swim, live or die, as fate might order,—then there would be no necessity for restrictive immigration laws. But small democracies, with limited capital, which refuse to let human beings starve, and whose consciences revolt against the sufferings of the poor, and even against the spectacle of compulsory idleness, must exercise some care in selecting those whom they take into partnership, and for whose well-being they become responsible.

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